

# **DATE 18 October 2022**

A meeting of the **WAVERLEY LOCAL PLANNING PANEL** will be held by video conference at:

12.00PM WEDNESDAY, 26 OCTOBER 2022

**QUORUM:** Three Panel members.

**APOLOGIES:** By email to WLPP@waverley.nsw.gov.au

# **AGENDA**

WLPP-2210.A Apologies

# WLPP-2210.DI Declarations of Interest

The Chair will call for any declarations of interest.

WLPP-2210.1 5

7 Albion Street, WAVERLEY NSW 2024 - Alterations and additions to existing building (shop top housing) including rear addition and balcony, internal fitout to Pharmacy and signage. (DA-81/2022)

Report dated 7 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.2 58

259 Military Road, DOVER HEIGHT NSW 2030 - Modification to alter internal layout, setbacks, windows and removal of condition 2. (DA-473/2021/A)

Report dated 13 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.3 89

251 Old South Head Road, BONDI NSW 2026 - Alterations and additions to a Residential Flat Building (RFB) including internal reconfiguration, balcony additions and construction of an additional upper level for the exclusive use of unit 2. (DA-220/2022)

Report dated 13 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be REFUSED for the reasons contained in the report.

WLPP-2210.4 149

46 Hewlett Street, BRONTE NSW 2024 - Alterations and additions to an existing residential flat building including three hardstand car spaces and conversion of existing garages to a ground floor unit and additional strata lot (DA-199/2022)

Report dated 10 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.5 234

458 Bronte Road, BRONTE NSW 2024 - Alterations and additions to semi-detached dwelling including new 3 storey addition to the rear, construction of a new carport and swimming pool, and landscape works. (DA-94/2022)

Report dated 12 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.6 322

108 Ramsgate Avenue, BONDI BEACH NSW 2026 - Demolition of existing building and construction of a new three storey residential flat building with attic level, basement level parking, tree removal and swimming pool at rear. (DA-45/2022)

Report dated 10 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.7 409

2/21 William Street, ROSE BAY NSW 2029 - Review of refusal of alterations and additions to Unit 2 within the existing multi-dwelling housing development. (DA-15/2022/1)

Report dated 10 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.8 452

102 Bondi Road, BONDI JUNCTION NSW 2022 - Alterations and additions to dwelling including attic conversion with front dormer windows and rear addition, and a new swimming pool. (DA-104/2022)

Report dated 12 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.9 492

Bondi Pavilion, Queen Elizabeth Drive, Bondi Beach, NSW 2026 - Use of premises (Shop 1) as a Cafe (Surfish Cafe) and associated internal fit-out and outdoor seating (DA-37/2022)

Report dated 10 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.

WLPP-2210.10 545

Bondi Beach and Park Reserve Trust (Reserve No. 500048) and Biddigal Reserve (within Ben Buckler Park / Ray O'Keefe Reserve) (Reserve No. 94356) - Use of temporary events within Bondi Beach, Park and Biddigal Reserve. (DA-255/2022)

Report dated 13 October 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED in accordance with the conditions contained in the report.





# Report to the Waverley Local Planning Panel

Application number	DA-81/2022	
Site address	7 Albion Street WAVERLEY	
Proposal	Alterations and additions to existing building (shop top housing) including rear addition and balcony, internal fitout to Pharmacy and signage.	
Date of lodgement	03/03/2022	
Owner	Bboka P/L Atf Oska Family Trust	
Applicant	Span Design Studio	
Submissions	One objection	
Cost of works	\$125 745	
Principal Issues	<ul><li>FSR</li><li>Heritage conservation</li></ul>	
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.	

# SITE MAP



# 1. PREAMBLE

# 1.1. Executive Summary

The development application seeks consent for alterations and additions to the existing building (shop top housing) including a rear ground floor addition and first floor balcony, internal fitout to Pharmacy and signage at 7 Albion Street, Waverley.

The principal issues arising from the assessment of the application are as follows:

- FSR;
- Heritage conservation; and
- Side setbacks.

The assessment finds these issues acceptable. The proposed additions are contained to the ground floor level at the rear of the site and will not result in unacceptable amenity impacts upon surrounding properties. The proposal has been designed to be reflective of the pattern of development to surrounding sites and will retain and enhance an existing heritage item. The proposal retains the heritage features of the property at the front and contains works to the shopfront which has been largely altered in the past. The proposed works will not harm the significance of the heritage item, the heritage group or the conservation area.

The application was notified and one submission was received. The issues raised in the submission have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

# 1.2. Site and Surrounding Locality

A site visit was carried out on 12/07/2022.

The site is identified as Lot 4 in DP 734108, known as 7 Albion Street, Waverley. The site is rectangular in shape with a frontage to Albion Street measuring 4.885m. It has an area of 143m² and is generally flat. The site has access to Cables Place to the south of the site via a separate pedestrian laneway and Right of Way (ROW) over the rear of neighbouring sites. All buildings in this row have access to the pedestrian laneway (possibly once a 'night soil' lane) accessing Cables Place.

The site is occupied by a two-storey shop top housing development with a retail shop at the ground level used as a chemist fronting Albion Street and a residential apartment above. The residential apartment is currently accessed from the rear yard via the pedestrian laneway and ROW from Cables Place. There is no vehicular access to the site.

The site is located within the Charing Cross precinct within a row of heritage listed buildings. The site is adjoined by similar shop top housing development on either side. The locality is characterised by buildings with retail shops at ground level and residential or commercial uses above.

Figures 1 to 6 are photos of the site and its context.



**Figure 1:** Site viewed from Albion Street (heritage listed group)



Figure 3: Rear elevation of building



**Figure 5:** Existing access at rear of site looking toward Cables Place



Figure 2: Shop frontage to Albion Street



Figure 4: Entry from the rear yard to existing apartment



**Figure 6:** Existing access at rear of site looking to the north

# 1.3. Relevant Development History

A search of Council's records revealed no recent development history for the site, other than a development consent, known as DA No. 31/78, for the use of the ground floor commercial premises of the building as a retail chemist shop, which was issued on 14/03/1978.

# 1.4. Proposal

The development application seeks consent for alterations and additions to an existing shop top housing building specifically involving the following works:

- Extension to the rear at ground floor level and to the northern side boundary to expand the existing retail shop (currently a pharmacy). Internal alterations to the existing shop at ground floor level to provide an office, accessible sanitary facility, storage and access to the rear yard.
- At present the entry to the apartment is from the rear yard and the northern side boundary to ground level internal stairs to the upper level. The proposal will enclose that entry and access along the northern boundary and provide a new external stair accessed from the rear boundary of the site. The external stairs will lead to a rear balcony for use of the apartment.
- Internal alterations to the first floor apartment.
- The bin storage area will be located below the external stairs within the rear yard.
- New automatic door to the shopfront from Albion Street.
- New signage on the front elevation associated with the shop including:
  - o awning sign with dimensions of 450mm x 4830mm
  - o fascia sign with dimensions of 585mm x 4500mm
  - o under awning sign with dimensions of 300mm x 2000mm
  - o window sign with dimensions of 300mm x 1000mm.

# 1.5. Background

The development application was lodged on 03/03/2022 and a request for further information (stop the clock) was made on 21/03/2022 for the following:

- 1. Insufficient written objection to a development standard.
- 2. Insufficient shadow diagrams.
- 3. Insufficient Heritage Impact Statement (HIS).
- 4. Provision of a National Construction Code (NCC) Report.

The additional information was received on 09/05/2022. After preliminary assessment of the application, it was deferred on 16/08/2022 for the following reasons:

- 1. The proposal exceeds the FSR development standard and results in additional overshadowing of an adjoining property window.
- 2. Further information regarding heritage conservation works required.
- 3. Further details of signage, including dimensions and lighting, required.

Amended plans and documentation were provided to Council on 19/09/2022 and forms the subject of the assessment within this report.

# 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

# 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

# 2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from 1 March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Industry and Employment) 2021.

# 2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
Part 2 Permitted or prohibited de	velopment	
Land Use Table B4 Mixed Use Zone	Yes	The proposal is defined as shop top housing, which is permitted with consent in the B4 zone.
Part 4 Principal development stan	ıdards	
4.3 Height of buildings  ● 9m	Yes	The proposal does not increase the height of the existing building overall and all proposed works are contained below the height

Provision	Compliance	Comment
		development standard. The new skylights at the rear will have a maximum height of 7.7m.
4.4 Floor space ratio     (FSR) 1:1	No	The proposal will have an FSR of 1.13:1 exceeding the development standard by 19m² or 13.3%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	Refer to detailed discussion below this table.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

# Clause 4.6 Exceptions to Development Standards

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 1:1. The proposed development has an FSR of 1.13:1, exceeding the standard by 19m<sup>2</sup> equating to a variation of 13.3%.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

## Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposed development respects the scale and form that characterises the heritage significance of the building.
  - (ii) The heritage significance of the site as well as its visual reading from the public domain is maintained whilst accommodating the additional floor area and the proposed variation to FSR therefore does not result in any adverse impact to the heritage significance of the site.
  - (iii) The additional bulk arising from the additional floor area is not readily discernible from the public domain as the development maintains its scale and presence when viewed from the public domain at Albion Street, and with only limited views to the rear when viewed from Cables Place.
  - (iv) There are no adverse impacts to adjacent and surrounding sites and the locality resulting from the proposed variation to the FSR development standard which would warrant strict compliance.
  - (v) The proposed variation to the density control facilitates an economically viable development of the site which provides the capacity for the investment in the maintenance and refurbishment of the local heritage item and will guard against 'deterioration' by neglect.
  - (vi) Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners, occupants, surrounding properties, and the general public and would not contribute to investment in the long-term viability and vitality of the Charing Cross commercial precinct.
  - (vii) The proposed alterations and additions represent development that is consistent and compatible with the pattern of development to the rear of the respective heritage listed commercial terrace row groups to the north and south of Cables Place, maintaining a positive contribution to and relationship with its immediate context and setting.
  - (viii) Strict compliance with the FSR standard in this particular instance would be unreasonable as it would not result in any discernible improvements to the development of the site that would allow it to be economically viable, with significantly greater function, useability and amenity benefits that do not currently exist.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The existing commercial and residential uses are not proposed to be altered as a result of this development and as such will continue to contribute to the diversity of commercial and residential uses within the Charing Cross commercial precinct.
  - (ii) The additional floor space does not seek to increase the density of the site, but instead provides additional functional floor space to the commercial shop at ground level in response to the increased demand for pharmaceutical services and product range within the locality, and to improve the amenity by way of improved and updated facilities and service offerings benefitting both employees and patrons.

- (iii) The additional bulk from the additional floor area is not readily discernible from the public domain as the development maintains its scale and presence as viewed from the public domain at Albion Street, and with only limited views to the rear when viewed from Cables Place.
- (iv) The majority of the additional floor space is contained at ground level acknowledging the importance of and need for appropriate floor area for retail development within the commercial precinct to ensure it is sustainable and viable.
- (v) The provision of residential access arrangements not associated with the commercial tenancy, the refurbishment of the first floor dwelling and private open space deck area is designed to improve independent use and improved residential amenity, more suited to 21st century contemporary living expectations and standards.
- (vi) The heritage significance of the site as well as its visual reading from the public domain is maintained whilst accommodating the additional floor area, and the proposed variation to FSR therefore does not result in any adverse impact to the heritage significance of the site.
- (vii) The proposed variation to the density control facilitates an economically viable development of the site which provides the capacity for the investment in the maintenance and refurbishment of the local heritage item and will guard against 'deterioration' by neglect.
- (viii) The proposed alterations and additions represent development that is consistent and compatible with the pattern of development to the rear of the respective heritage listed commercial terrace row groups to the north and south of Cables Place, maintaining a positive contribution to and relationship with its immediate context and setting.
- (ix) There are no adverse impacts to adjacent and surrounding sites and the locality resulting from the proposed variation to the FSR development standard which would warrant strict compliance. Minor additional overshadowing is cast to the roof the adjoining property to the south which is built to each of its site boundaries, with the proposed upper level terrace area overlooking either the walls of the residential dwelling directly opposite to the west or roofscapes of surrounding commercial development to the north and south.

# Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

## Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justifications (a) and (c) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant has provided sound justification in relation to justification (a) establishing that the proposal is consistent with the objectives of the FSR development standard and the zoning. Given that only one of the above justifications is required to be addressed, this is considered sufficient.

# Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds used to justify the breach are well-considered and sound.

# Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the FSR development standard are as follows:

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,
- (b) to provide an appropriate correlation between maximum building heights and density controls,

- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

Objective (a) is not relevant to the subject site.

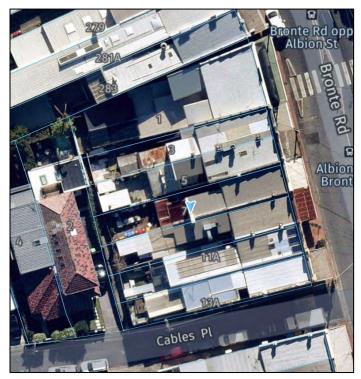
The proposal has been amended since it was first submitted to reduce the FSR variation by removing a proposed extension to the apartment at the first floor level. The amended proposal contains all extensions to the existing built form to the ground level. The surrounding properties within the row of buildings have had various extensions built over time, with some having full ground level coverage and others having extensions to the upper floor levels extending almost to the rear boundary of the site. In this regard, there is no clear defined pattern of development (demonstrated in **Figures 7 to 9**).



**Figure 7:** Rear of row of buildings to the north of the site (Nos. 5 and 3 Albion Street)



Figure 8: Rear of buildings in the row to the south of the site (Nos. 11 and 13 Albion Street) as viewed from the pedestrian laneway along the rear boundary



**Figure 9:** Aerial image showing the pattern of development to buildings within the row demonstrating various ground and first floor level additions (Source: NearMap)

The proposed ground floor extension provides improved retail space contributing to the commercial area and ensuring the long-term viability of the retail space. The proposed extension is contained at the ground floor level and is not out of character with the varied ground floor levels of surrounding sites. The bulk and scale of the retained front portion of the building are retained as existing. The proposed extensions, being contained at ground level at the rear, will not impact upon the streetscape and will ensure the upgrade and retention of a heritage item into the future. The expansion of the ground floor retail space is not out of character with surrounding properties or inconsistent with the desired future character of the locality.

The original proposal included an extension to the upper level apartment at the rear however this resulted in overshadowing of windows on the adjoining property and has been removed from the amended proposal. The containment of the additions to the ground level ensures that there are limited amenity impacts upon surrounding properties, as the overshadowing falls onto the roof of the adjoining property to the south. Given that the adjoining southern property is built up to the southern side boundary for almost the entire length of the site, there will be no additional overshadowing of this site, except upon the roof. The ground floor addition, which contains the additional FSR subject to the variation, will not result in unreasonable privacy impacts upon surrounding properties (the proposed terrace is also considered acceptable however is subject to a separate assessment in Section 2.1.3 of this report) and no loss of views. As such, the additional floor space sought will preserve the amenity of surrounding properties.

Given the above analysis, the proposal is considered to the consistent with the relevant objective of the development standard,

The objectives of the B4 zone are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.

The proposal retains a mixed use development with a retail shop, currently occupied by a chemist, and residential apartment above. The retail use is a suitable and valuable service for the local community. The proposal does not provide car parking on site, consistent with the existing situation, and as such encourages public transport patronage, walking and cycling. The proposal is within an existing heritage listed building and the proposed works will ensure the viability of the valuable retail space and the building. The expansion of the shop into the rear at the ground level improves the retail space for the building to ensure long-term use into the future. The proposal is considered to be consistent with the objectives of the zone.

# Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the B4 zone.

# Heritage conservation

The site is occupied by a Federation period shop top two-storey building contained within a consistent group located to the southern end of the Charring Cross retail streetscape. The building is identified as part of a heritage listed group (Item I442 in the Waverley Local Environmental Plan) and is contributory in form, detail, and scale to the Charring Cross Conservation Area.

The original proposal was deferred to address a number of matters including the following heritage conservation works:

- The proposed replacement shopfront is to reflect the pattern of the shopfront to the adjacent shop at 9 Albion Street, with baseboards to windows and doors, and highlights, matching the heights of these to the adjacent shopfront. All faming metal is to be in a dark colour and not clear anodise.
- The presence of original detailing above the suspended ceiling to the shop interior is to be investigated with this detail retained and where possible displayed as part of the proposed works.

- Paint and display colours to the ground floor shop front are to be of subdued colour with highlights of propriety branding (the strong blue colour) limited to trims and lettering of limited extent.
- A schedule of conservation works to the street frontage and overall internal fabric is to be provided.
   Where original windows are proposed to be removed these are to be reused in the new works to the rear areas of the building.
- The raised lettering within the parapet extending below the shared pediment with the attached building to the south is to be painted a common colour (matching off-white is recommended) to facilitate reading from the street.

The amended proposal includes minimal alteration of the front façade of the building, being contained only to the shopfront and includes new replacement signage and provision of an automatic door to replace the existing sliding door. The shopfront has been extensively altered and retains minimal heritage features. The proposed works have been discussed with Council's Heritage Architect who advised that the limited extent of works proposed to the front façade are considered acceptable on heritage grounds and the remaining details above in relation to paint and display colours, a schedule of conservation works and the raised lettering within the parapet are to be required by conditions of consent. Appropriate conditions are included in Appendix A of this report.

The proposed additions at the rear of the building will not detract from the heritage significance of the building or the conservation area.

# 2.1.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) - Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory
Ecologically Sustainable     Development	Yes	Satisfactory
3. Landscaping and Biodiversity	Yes	Satisfactory
6. Stormwater	Yes	Satisfactory
7. Accessibility and Adaptability	Yes	Satisfactory
9. Heritage	Yes	Satisfactory (refer to previous discussion)
10. Safety	Yes	Satisfactory
12. Design Excellence	Yes	Satisfactory
15. Advertising and Signage	Yes	The proposed signage is considered appropriate to the building, being contained below the awning level. The heritage features above the

Development Control	Compliance	Comment
		awning level are intact and will not be impacted as a result of the signage.
		The signage is in corporate colours however this is limited to the shopfront only with the off-white colour palette of the heritage listed building above being retained.
		The signage complies with the area requirements of the DCP and are of a size and proportion that complements the scale of the existing shopfront.

Table 3: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
<ul> <li>3.3 Setbacks</li> <li>3.3.2- Side and rear setbacks</li> <li>Minimum side setback: <ul> <li>1.5m</li> <li>Minimum rear setback:</li> <li>6m or predominant rear building line, whichever is the greater setback</li> <li>Deep soil along side</li> </ul> </li> </ul>	No	Refer to discussion following this table in regard to side and rear setbacks.  The site does not contain any existing deep soil on the side boundaries. Given the built form of the row of terraces, deep soil on side boundaries is not consistent with the established built form in the vicinity of the site and is not necessary in
boundary min 2m wide  3.5 Building design and street	scano	this circumstance.
<ul> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Corner sites to address both streets as primary frontages</li> <li>Removal of original architectural features not supported.</li> </ul>	Yes	The proposed rear additions have no additional impact on the streetscape as the works are not visible from Albion Street.  The proposed external materials and finishes will not detract from the style or character of the original building and are acceptable.  The proposal does not seek to remove any significant original architectural features of the building.
<ul> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Separate to vehicular entry</li> <li>Legible, safe, well-lit</li> </ul>	Yes	The proposal retains the existing access for the ground floor retail shop from Albion Street and the rear access for the residential apartment via the right of way from Cables Place.

Development Control	Compliance	Comment
3.9 Landscaping		
<ul> <li>Comply with part B3- Landscaping and Biodiversity</li> <li>Minimum of 30% of site area landscaped</li> <li>50% of the above is to be deep soil</li> </ul>	No	The proposal retains 13m² in the rear yard for deep soil and landscaping which is 9% of the site. This is an improvement on the existing situation on the site which is hard paved in the rear yard.
3.11 Private Open Space		
<ul> <li>3.11.2 – Balconies/decks</li> <li>Balcony additions to match the character of the building</li> <li>Should not dominate the façade</li> <li>No wrap around balconies</li> <li>Located to maximise solar access and privacy</li> <li>Balustrades to allow views and casual surveillance of the street &amp; privacy</li> </ul>	Yes	The proposal provides a balcony for the use of the apartment with an area of $10\text{m}^2$ at the rear. The existing apartment does not presently have any private outdoor space as the ground level is shared with the retail shop. This is considered an improvement and is not dissimilar to surrounding properties that have been granted consent for recent additions. Both properties on the corner with Cables Lane have elevated balconies for the apartments.
3.13 Solar access and overshad	lowing	
<ul> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid winter.</li> <li>Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>	Yes	The ground floor addition will not result in unreasonable overshadowing of the adjoining properties to the south, with the additional overshadowing falling onto the roof and within existing shadows.
3.14 Views and view sharing	.,	No. 1 and 1
<ul> <li>Minimise view loss through design</li> <li>Views from public spaces to be maintained.</li> </ul>	Yes	No known significant views will be impacted.
3.15 Visual privacy and securit		
Dwellings to be orientated to the street with entrances and street numbering visible	Yes	The shop top apartment has existing window openings to the street. No changes are proposed to the façade fronting Albion Street. Access to the apartment via the right of way at the rear of the site will be maintained.

Development Control	Compliance	Comment
<ul> <li>Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened</li> <li>Privacy be considered in relation to context density, separation use and design.</li> <li>Prevent overlooking of more than 50% of private open space of lower level dwellings in same development</li> <li>Roof tops are to be nontrafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site.</li> </ul>		The rear first floor balcony is generally consistent with the location and dimensions of existing balconies at Nos. 11 and 13 Albion Street, the two properties within the row of terraces that have recent works. In terms of overlooking of the rear yards of both adjoining properties, No. 9 is almost fully covered in structures and No. 5 is used for the commercial premises with commercial sanitary facilities located along the rear boundary. The proposed terrace includes moveable planters on the side boundaries to inhibit overlooking however a condition will require that these planters are fixed.  The image in this column demonstrates the opposing elevation of the property to the rear at No. 2 Cables Place:  The terrace will be set back 9.5m from the rear boundary which is further separated from No. 2 Cables Place by the pedestrian walkway at the rear. This is considered sufficient distance from the windows at No. 2 Cables Place particularly given the density of the surrounding sites and similar balconies at surrounding properties.  The proposal includes a new external stair from the rear boundary to the apartment. A number of surrounding properties have a similar arrangement for access the apartments above the shops. The stairs are not considered to cause detrimental privacy impacts upon surrounding properties as they are for access/egress only.

Development Control	Compliance	Comment
		The proposal is not considered to result in any unreasonable privacy impacts on adjoining properties.
3.19 Acoustic privacy		
<ul> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	The proposal will not result in additional unreasonable acoustic impacts.
3.21 Building services		
<ul> <li>Services are to be integrated into the design of buildings</li> <li>Outdoor Communal clothes drying area to be provided</li> <li>Plant rooms away from entry communal and private open spaces and bedrooms.</li> <li>Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</li> </ul>	Yes	Garbage storage is provided within the rear courtyard in proximity to the right of way to the north which provides access for collection on Cables Place. Letterboxes have not been shown on the architectural plans. A condition has been imposed requiring the location of letterboxes to be shown on the plans.  The new balcony is large enough to accommodate some outdoor clothes drying which is an improvement for the apartment.

Table 4: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

Development Control	Compliance	Comment
1.1 Other Policies, Strategies a	nd Standards	
1.2 Design		
1.2.1 Frontages	Yes	The proposal includes changes to the existing sliding entry door to the shop to accommodate an automatic door. The design is consistent with the existing front elevation which has already been altered in the past to accommodate the shop front.

Table 5: Waverley DCP 2012 – Part E3 Local Village Centres Compliance Table

Development Control	Compliance	Comment
3.1 Specific controls		
3.1.3 Charing Cross Small Village	Yes	The site is located within the Charing Cross Local Village within a row of heritage listed commercial/residential terraces. The proposal does not seek to alter the front façade of the existing terrace and retains the shop top housing

<b>Development Control</b>	Compliance	Comment
		use which is consistent with the established use of the row of terraces fronting Albion Street and character of the village.
3.2 Generic controls		
3.2.1 Land uses	Yes	The retention of the existing shop top housing is consistent with the land use controls under the DCP with ground floor access provided at the rear (via the existing right of way from Cables Place).
3.2.2 Public domain interface	Yes	The ground floor shopfront maintains access to a commercial tenancy. New signage and an entry door are proposed to the ground level shop entry. This entry currently retains no heritage features presenting to the street with a flat glazed window.
3.2.3 Built form	Yes	The proposal provides setbacks and building depths that respond appropriately to the existing built form of terraces within the row at the ground and first floor levels.
3.2.4 Building facade articulation	Yes	No change is proposed to the front elevation fronting Albion Street other than minor modifications to the door and associated signage as detailed previously.  The architectural style of the proposed rear addition is consistent with the articulation of rear additions to terraces within the row. As the ground floor extensions will not be visible from the public domain and will not impact on the character of the streetscape, the proposed rear elevation is acceptable.
3.2.5 Buildings of historic character	Yes	Existing original fabric fronting Albion Street will be retained. The proposal will not have any impact on the contribution of the existing building within the streetscape, village or conservation area.
3.2.6 Building services and site facilities	Yes	Proposed services are contained at the rear of the site and will not impact on the existing appearance of the building when viewed from Albion Street. Council's Waste Management Officer has raised no objection to the proposed removal of garbage from the rear courtyard via a right of way to Cable Place.

Development Control	Compliance	Comment	
		A laundry is provided within the apartment.	

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

#### Side and rear setbacks

The proposal seeks to build to the side boundaries for the full width of the site at ground level by extending the retail shop into the existing side setback that provides access for the apartment above. The adjoining property to the south is built up to the shared boundary for almost the entire length of the building and as such a nil side boundary setback along the southern boundary is appropriate. The adjoining property to the north has a nil side boundary setback for most of this setback and the proposal will be built up to the adjoin this wall and extend slightly beyond. This is not out of character with surrounding development. Additionally, the adjoining property to north uses the rear yard for the commercial premises with sanitary facilities associated with the retail space built adjoining the rear boundary.

The ground level setbacks are considered appropriate given the pattern of surrounding development.

# 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

#### 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

# 2.4. Any Submissions

The application was notified for 21 days and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

• The proposed upper floor addition at the rear has been removed.

During public notification of the application, one submission from the Charing Cross Precinct Committee was received.

The following issues raised in the submission have already been discussed and addressed in the body of

this report and/or the Recommendation:

Heritage and conservation of the original building

Design and appearance at the rear

Privacy

Location of letterboxes not shown.

All other issues raised in the submissions are summarised and discussed below.

Issue: Heritage and conservation.

Response: A number of recommendations in relation to heritage matters were made by the precinct committee and where appropriate, some of these have been included in the amended plans or are required by condition. Notwithstanding, Council's Heritage Architect has reviewed the amended proposal and has advised that the works are satisfactory as previously discussed.

Issue: Cross ventilation to the apartment and the shop.

Response: There is no requirement for cross-ventilation of a shop. The amended proposal essentially retains the apartment as existing except for the new entry, enclosure of the stairs and some internal alterations. The apartment is provided with cross-ventilation.

Issue: Smell – there is an odour in the shop that should be investigated by Compliance Officers.

**Response:** This is not relevant to the development application.

Issue: One tree should be provided in the rear yard.

Response: There will be no removal of trees from the site and as such there is no requirement for a replacement tree.

*Issue:* Cost of works appears to be low and should be checked.

**Response:** The appropriate documentation has been provided in regard to the cost of works.

*Issue:* A Heritage Architect should be engaged to review the plans.

Response: Council's Heritage Architect has reviewed the proposal and is satisfied with the amended scheme subject to conditions.

#### 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

#### 3. REFERRALS

The following internal and external referral comments were sought:

# 3.1. Heritage Conservation

The following comments were provided by Council's Heritage Architect regarding the original proposal:

- The Heritage Impact report is minimal with no details as to the history, state of existing fabric, or impact of the works on the significance of the listed building and related group. Even the age and style of the building is not identified.
- The review of fabric identified elements of construction including double hung timber window sashes and frames as of no significance despite these appearing of original construction.
- No evidence is provided as to the state of fabric and potential presence of original detail above the existing suspended ceiling.
- The replacement shop front door and windows provide no reference to the historic pattern of shop fronts remaining evident in other shopfronts within the listed group.
- There is limited provision for conservation or reinstatement of original detail to the street front despite the extent of new works proposed to the central and rear areas of the building.

#### **Recommendations**

To maintain cohesion with the existing listed fabric it is recommended that:

- The proposed replacement shopfront is to reflect the pattern of the shopfront to the adjacent shop at 9 Albion Street, with baseboards to windows and doors, and highlights, matching the heights of these to the adjacent shopfront. All faming metal is to be in a dark colour and not clear anodise.
- The presence of original detailing above the suspended ceiling to the shop interior is to be investigated with this detail retained and where possible displayed as part of the proposed works.
- Paint and display colours to the ground floor shop front are to be of subdued colour with highlights of propriety branding [ the strong blue colour] limited to trims and lettering of limited extent.
- A schedule of conservation works to the street frontage and overall internal fabric is to be provided. Where original windows are proposed to be removed these are to be reused in the new works to the rear areas of the building.

The raised lettering within the parapet extending below the shared pediment with the attached building to the south is to be painted a common colour [matching off- white is recommended] to

facilitate reading from the street.

The application was deferred with the above recommendations included in the deferral matters.

Additional information and amended plans were subsequently provided and were discussed with

Council's Heritage Architect who advised that the limited extent of works proposed to the front façade

are considered acceptable on heritage grounds and the remaining issues are to be conditions as per

previous comments. Appropriate conditions are included in Appendix A.

3.2. Building (Fire Safety)

Conditions were provided which are included in Appendix A of this report.

3.3. Stormwater

Conditions were provided which are included in Appendix A of this report.

3.4. Waste and Recycling

Conditions were provided which are included in Appendix A of this report.

3.5. Environmental Health

Conditions were provided which are included in Appendix A of this report.

4. **CONCLUSION** 

The application has been assessed against the relevant matters for consideration under section 4.15(1)

of the Act. It is recommended for approval subject to conditions of consent.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 09/08/2022 and the DBU determined:

(a) The application should be deferred and amendments required as follows:

The variation to the FSR development standard will result in overshadowing of the adjoining

windows and should be reduced.

The remaining aspects of the proposal are considered acceptable.

The proposal was deferred as previously discussed and the amended proposal addresses the above

matter raised by the DBU.

DBU members: M Reid, B McNamara, B Magistrale and T Sneesby

# 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:	
deuce		
Kylie Lucas	Ben Magistrale	
Senior Development Assessment Planner	Manager, Development Assessment (Area 2) (Reviewed and agreed on behalf of the Development and Building Unit)	
Date: 07/10/2022	Date: 07/10/2022	

# Reason for WLPP referral:

3. Departure from any development standard in an EPI by more than 10%

# APPENDIX A - CONDITIONS OF CONSENT

# A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans including the following:

Plan Number and	Plan description	Plan Date	Date received by
Revision			Council
DA.001 C	Site Plan	06/09/2022	16/09/2022
DA.040 C	Existing Demolish Floor Plans and	06/09/2022	16/09/2022
	EMS		
DA.100 C	Proposed Ground and Level 1 Plans	06/09/2022	16/09/2022
DA.101 C	Proposed Roof Plan	06/09/2022	16/09/2022
DA.200 C	Proposed Sections	06/09/2022	16/09/2022
DA.300 C	Proposed Elevations	06/09/2022	16/09/2022
DA.500 C	BASIX – Sheet 1	06/09/2022	16/09/2022
DA.501 C	BASIX – Sheet 2	06/09/2022	16/09/2022
DA.400 B	Proposed Signages	06/09/2022	16/09/2022

- (b) BASIX Certificate.
- (c) The Site Waste and Recycling Management Plan (SWRMP) Part 1.

Except where amended by the following conditions of consent.

### 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The moveable planters are to be fixed planters along the side boundaries of the first floor balcony to protect the privacy of adjoining properties.
- (b) Show the location of the letterbox for the apartment.
- (c) All framing metal to the replacement shopfront is to be in a dark colour and not clear anodise.
- (d) The presence of original detailing above the suspended ceiling to the shop interior is to be investigated with this detail retained and where possible displayed as part of the proposed works.
- (e) Paint and display colours to the ground floor shop front are to be of subdued colour with highlights of propriety branding (the strong blue colour) limited to trims and lettering of limited extent.
- (f) A schedule of conservation works to the street frontage and overall internal fabric is to be provided. Where original windows are proposed to be removed these are to be reused in the new works to the rear areas of the building.
- (g) The raised lettering within the parapet extending below the shared pediment with the attached building to the south is to be painted a common colour (matching off-white is recommended) to facilitate reading from the street.

The amendments are to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

# B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

#### **GENERAL REQUIREMENTS**

#### 3. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

# **CONTRIBUTIONS, FEES & BONDS**

#### 4. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:
    - "Waverley Council Cost Summary Report"; or,
  - (ii) Where the total development cost is \$500,000 or more:
    - "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### 5. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$3700 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### 6. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

#### 7. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **CONSTRUCTION MATTERS**

## 8. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

#### 9. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

# 10. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

# 11. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### 12. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

# 13. BUILDING CODE OF AUSTRALIA

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

#### 14. ESSENTIAL SERVICES - EXISTING BUILDING

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and
- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

#### 15. FIRE SAFETY UPGRADING WORKS

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Section 64 of the Environmental Planning and Assessment Regulations 2021, all existing areas of the subject building must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
  - (i) Fire resistance and stability Part C1;
  - (ii) Compartmentation and separation Part C2;
  - (iii) Protection of openings Part C3
  - (iv) Provision for escape Part D1;
  - (v) Construction of exits Part D2;
  - (vi) Access for people with a disability D3 (to the extent necessary in order to comply with the Disability (Access to Premises Buildings) Standards 2010);
  - (vii) Fire fighting equipment Part E1;
  - (viii) Smoke hazard management Part E2;
  - (ix) Emergency lighting, exit signs and warning systems Part E4;
  - (x) Sanitary and other facilities Part F2;
  - (xi) Room heights Part F3;
  - (xii) Light and ventilation Part F4; and
  - (xiii) Sound transmission and insulation Part F5.
- b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, a performance solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

Note: The provisions of Section 64 of the Environmental Planning and Assessment Regulations 2021 have been considered in the assessment of the proposed development.

# TRAFFIC MANAGEMENT

# 16. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction

Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development\_applications/post\_determination/development\_applications - conditions of consent\_

# **STORMWATER & FLOODING**

#### 17. STORMWATER MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- c) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- d) All new downpipes are to be located wholly within the property's boundary.
- e) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

# Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in<sup>™</sup> for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above.

- Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: <a href="mailto:assets@waverley.nsw.gov.au">assets@waverley.nsw.gov.au</a> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

# **ENERGY EFFICIENCY & SUSTAINABILITY**

#### **18. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

#### **WASTE**

#### 19. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

#### **20. WASTE STORAGE AREAS**

The development must have a bin storage area with sufficient space to accommodate the following minimum number of bins and storage for the development.

#### • Residential 1 unit

- o 1 x 140L Mobile Garbage Bins (MGBs) for general waste (collected weekly)
- o 1 x 140L MGBs for paper and cardboard recycling (collected fortnightly)
- o 1 x 140L MGBs for container recycling (collected fortnightly)
- Additional space must be allocated to store bulky household items and problem wastes such as electronic waste and textiles while awaiting collection.

# Commercial

- o 2 x 240L Mobile Garbage Bins (MGBs) for general waste
- o 2 x 240L MGBs for comingled recycling
- Space must be allocated for bulky items such as bulky cardboard and packaging
- The frequency of collection must be monitored and adjusted accordingly, particularly during summer.

All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the *Waverley Council Development Control Plan 2012* to the satisfaction of the Principal Certifying Authority.

# C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

#### **PRIOR TO ANY WORKS**

#### 21. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### **DEMOLITION & EXCAVATION**

#### 22. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### 23. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

#### 24. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

#### **CONSTRUCTION MATTERS**

#### 25. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

# 26. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

## 27. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

### 28. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to the construction of a higher level of the building.

### 29. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

### 30. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

### **TREE PROTECTION AND REMOVAL**

### **31. TREE PROTECTION**

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

# D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **CERTIFICATION AND LICENCES**

### 32. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### 33. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### 34. FIRE SAFETY UPGRADES

Fire safety upgrading works are to be undertaken in accordance with condition 15 of this development consent.

The Occupation Certificate shall not be issued until all fire safety works are completed.

### 35. CERTIFICATION OF CONSTRUCTED STORMWATER SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### 36. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### S. MANAGEMENT PLANS

### 37. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include the following where relevant.

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) The role and responsibility of managing composting facilities (if provided).
- (d) Clear signage identifying the different bin types and storage area for bulky household waste and problem waste must be displayed.
- (e) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (f) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (g) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (h) The occupant/body corporate shall be provided with at least one copy of the Waste Management
- (i) At no times shall bins be stored on the public domain (e.g. footpaths).

### E. OPERATIONAL MATTERS

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

### **GENERAL MATTERS**

#### 38. AIR EMISSIONS

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997.

### **39. NOISE EMISSIONS**

The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.

### 40. NOISE - MECHANICAL PLANT (COMMERCIAL PREMISES)

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act* 1997 to any place of different occupancy.
- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

### 41. NOISE - ACOUSTIC REPORT

Upon selection of mechanical plant an Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant, refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate).

Note: Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which will be required to be submitted to Council for approval prior to the issue of an Occupation Certificate.

For further information on the requirements, refer to Council's website:

https://www.waverley.nsw.gov.au/building/development applications/post determination/development applications - conditions of consent

### 42. CERTIFICATION OF ACOUSTIC PERFORMANCE

An acoustic report/certificate prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and the Council, certifying that all acoustic conditions of consent (including the operational conditions) have been satisfied.

### 43. REFRIGERATION UNITS & MECHANICAL PLANT

Air conditioning units, refrigeration motors/units and other mechanical plant are not to be installed outside the building without the prior consent of Council in order to assess the cumulative impacts of noise to adjoining properties. All plant is to be installed within the confines of the building and be acoustically treated to ensure that it within the acceptable limits.

### 44. MECHANICAL VENTILATION SYSTEMS

The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.

### 45. CERTIFICATION OF ALL MECHANICAL PLANT

A Certificate of Test of all mechanical plant together with a copy of the final test figures, conducted by a suitably qualified person, certifying that the system complies with the conditions of this consent, National Construction Code (NCC) and relevant Australian Standards.

### **46. VERMIN AND RAT CONTROL**

A *Pest and Vermin Control Management Plan* prepared by a suitable qualified person outlining measures to be taken to reduce rat/vermin populations is to be submitted for the approval of Council's Manager, Health and Compliance (or delegate) prior to the issue of a Construction Certificate for the demolition of existing buildings.

### **47. WASTE MANAGEMENT PLAN REVIEW**

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

### **ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to <a href="mailto:info@waverley.nsw.gov.au">info@waverley.nsw.gov.au</a> or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

### **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

### AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

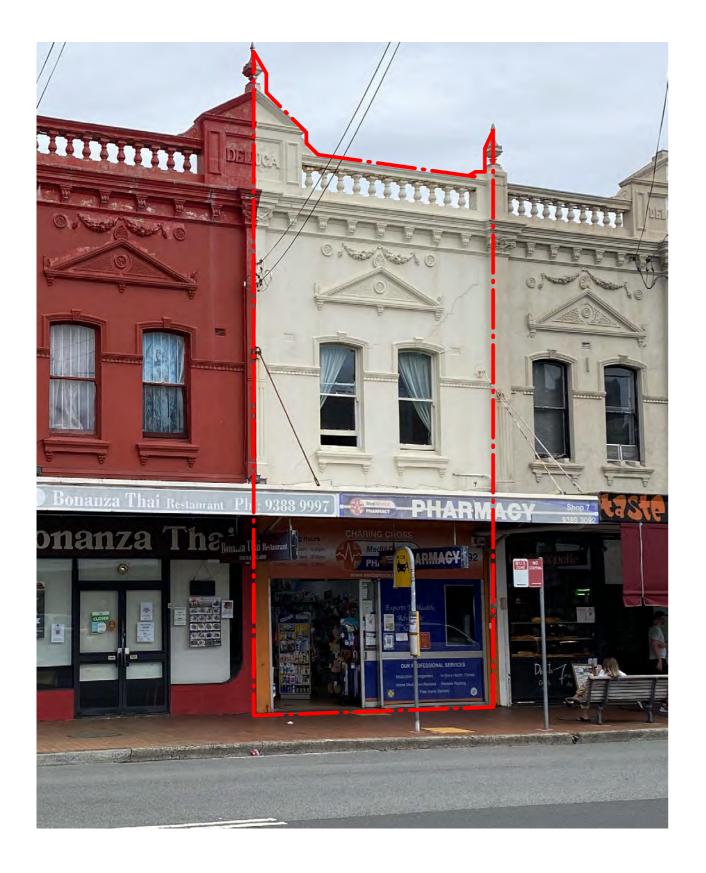
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

### AD5. SIGNS/GOODS IN THE PUBLIC WAY

No signs or goods are to be placed on the footway or roadway adjacent to the property.

# **Alteration and Extension**

- DEVELOPMENT APPLICATION FOR 7 ALBION ST WAVERLEY NSW 2024



# DA.Drawing List

DA.000	Cover Page
DA.001	Site Plan
DA.040	Existing Demolish FLoor Plans and EMS
DA.060	Proposed GFA
DA.070	Existing and Prooposed Shadows Winter - Sheet 1
DA.071	Existing and Prooposed Shadows Winter - Sheet 2
DA.072	Existing and Prooposed Shadows Winter - Sheet 3
DA.075	Existing and Proposed Shadows 9 Albion St SouthWest Elevations Winter - Sheet 1
DA.076	Existing and Proposed Shadows 9 Albion St SouthWest Elevations Winter - Sheet 2
DA.100	Proposed Ground and Level 1 Plans
DA.101	Proposed Roof Plan
DA.200	Proposed Sections
DA.300	Proposed Elevations
DA.400	Proposed Signages
DA.500	BASIX - Sheet 1
DA.501	BASIX - Sheet 2

# RECEIVED Waverley Council

Application No: DA-81/2022

Date Received: 16/09/2022

## General Notes

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.

All Levels Indicated Taken To Australian Height Datum (AHD)

Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels

Drawings Are **Not** To Be Scaled From. Use Only Figured Dimensions Where Indicated

### Development Application

 Rev
 Description
 Date

 A
 Issue for DA
 2022.02.10

 B
 Issue for DA: added Acc.Toilet
 2022.05.02

 C
 Issue for DA:Reassessment
 2022.09.06

**NOT For Construction** 

AMENDED PLANS

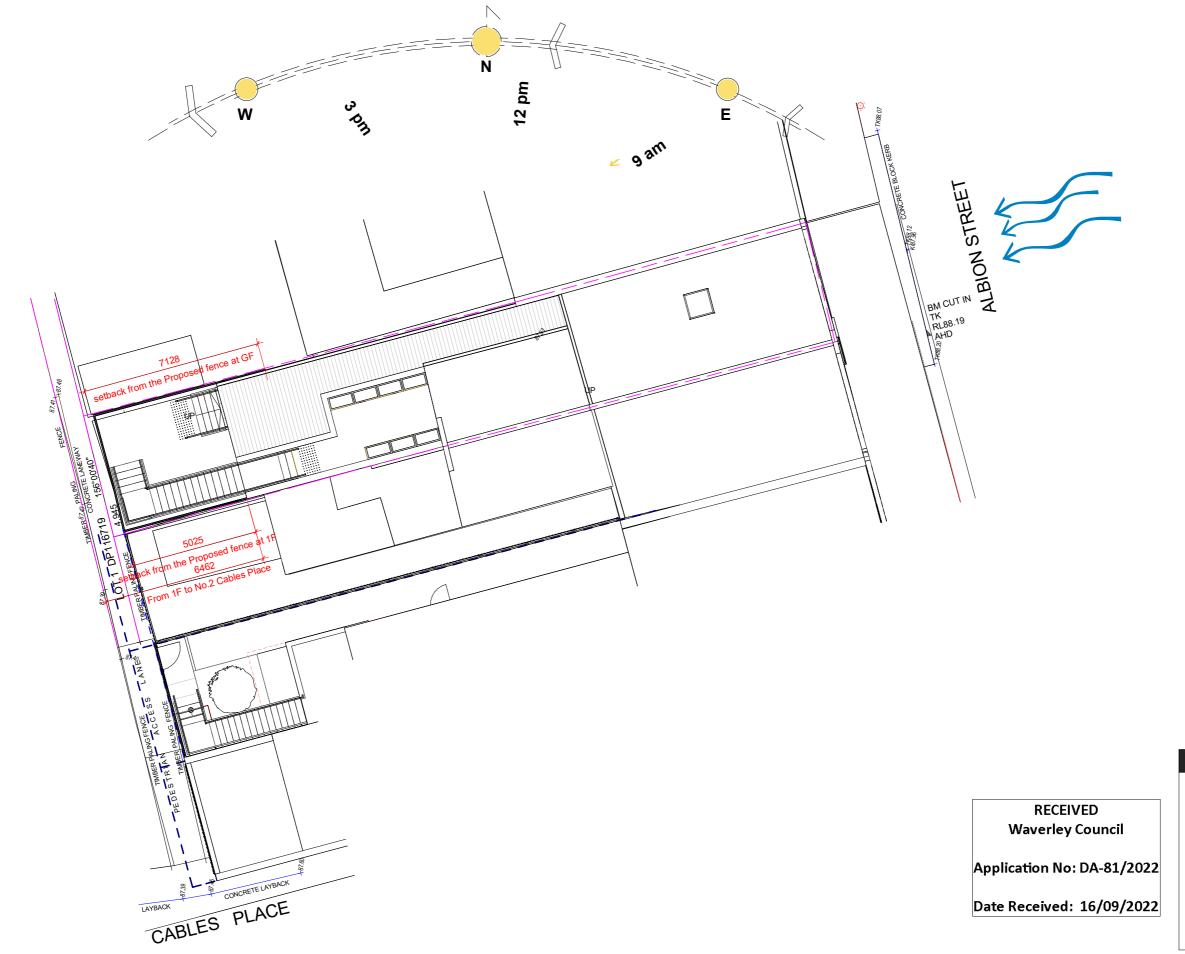
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7 Albion St Waverley NSW 2024
REVITI220902.rvt JOB No.

Cover Page

SCALE A3 @ As indicated DWG No. DA.000 C



# General Notes

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### **Development Application**

### **NOT For Construction**

1.5m

Scale Bar 1:150

A MENDED PLANS



7 Albion St Waverley NSW 2024

Y:\ETC\000.Projects\80.7 Albion Street WAVERLEY NSW 2024\REVIT\220902.rvt JOB No.

Site Plan

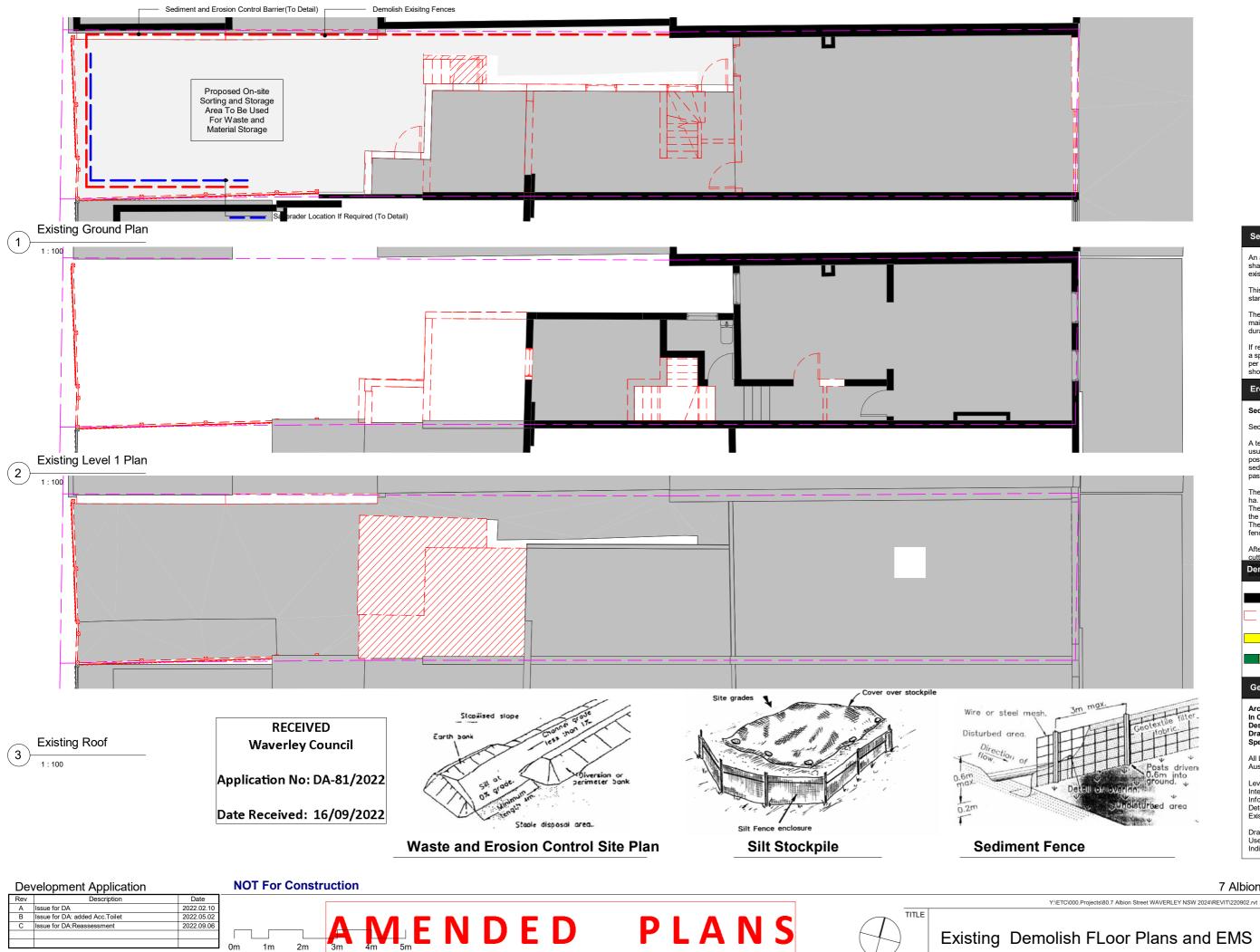
JOB No.

DATE

SCALE A3 @ As indicated

DWG No.

DA.001 C



7 Albion St Waverley NSW 2024 JOB No.

Sediment Management Plan An approved sediment control fence shall be erected along the line of the existing fences as shown one the plan. This fence shall be erected prior to to

The fence shall be inspected daily and maintained in good working for the duration of construction on stage. If required in case of extreme rainfall, a spreader shall also be constructed per the diagram and in position as shown on the plan. **Erosion Control Notes** Sediment Trapping Devices.

A temporary barrier of geotextile fabric usually supported by steel mesh and posts to filter runoff, trapping the sediment and allowing fitered water to

The are draining to the fences is 0.6 ha. or less.
The maximum slope gradient behind the fence is 2:1
The maximum slope length behind the

After each rain event, check for under

Denotes existing Denotes examine structure to remain

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And

Australian Height Datum (AHD)

Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of

Drawings Are **Not** To Be Scaled From. Use Only Figured Dimensions Where Indicated

Existing Footpath Levels

Denotes existing structure Denotes new structure Denotes Public Open Space

nolition Legend

**General Notes** 

start of any works.

Sediment Fence;

pass through.

fence is 60m.

Existing Demolish FLoor Plans and EMS

SCALE A3 @ As indicated DWG No

DA.040 C

PLANS

Issue for DA: added Acc.Toilet

C Issue for DA:Reassessment

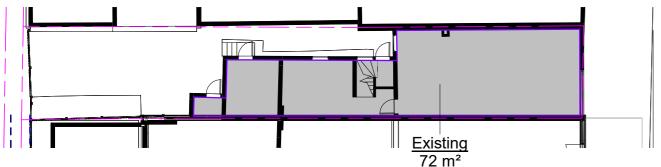
2022.05.02

2022.09.06

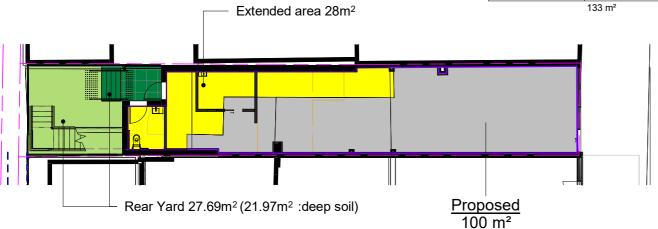
1m

Scale Bar 1:100

2m

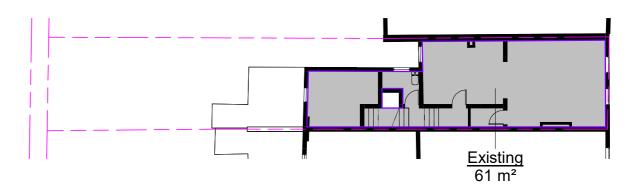




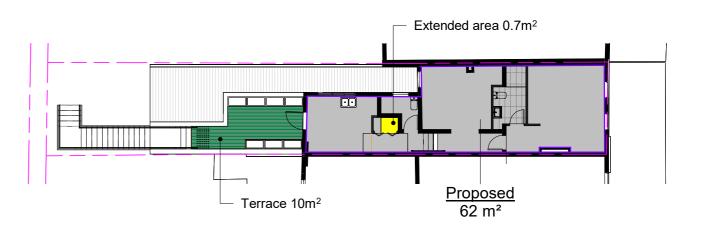


Area Schedule (Proposed) Level Area Level 1 Ground 100 m<sup>2</sup> 162 m<sup>2</sup>

Area



**GFA Existing Level1** 



GFA Proposed Level 1

Site Area: 143m²

 $\begin{tabular}{ll} \textbf{Permissible FSR 1:1 Permissible Area:} 143m^2\\ \textbf{Existing FSR 0.93:1:} 133m^2\\ \end{tabular}$ 

Existing + Proposed FSR 1.13:1 162m<sup>2</sup>: C.4.6 Exceedance - Floor space ratio

Permissible Height of Building 9m : Keep Existing Ridge line
Private open space / Courtyard
- 27.69m²(Ground) + 10m²(Balcony at rear ) = 37.69m²( 60% of dwelling(62m²) - Complied with DCP

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement (i) storage, and
- (ii) sehicular access, loading areas, garbage and services, and (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and (g) car parking to meet any requirements of the consent authority (including access to that car parking), and (h) any space used for the loading or unloading of goods (including access to it), and (i) terraces and balconies with outer walls less than 1.4 metres high, and

(j) voids above a floor at the level of a storey or storey above.

# **General Notes** Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications. All Levels Indicated Taken To Australian Height Datum (AHD) Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels Drawings Are **Not** To Be Scaled From. Use Only Figured Dimensions Where

# **NOT For Construction**

Dev	Development Application					
Rev	Description	Date				
Α	Issue for DA	2022.02.10				
В	Issue for DA: added Acc.Toilet	2022.05.02				
С	Issue for DA:Reassessment	2022.09.06				

**GFA Proposed Ground** 

A MENDED 2m 4m Scale Bar 1:200



7 Albion St Waverley NSW 2024

Demolition Legend

Denotes existing structure to remain Denotes existing structure

Denotes new structure

Denotes Public Open Space

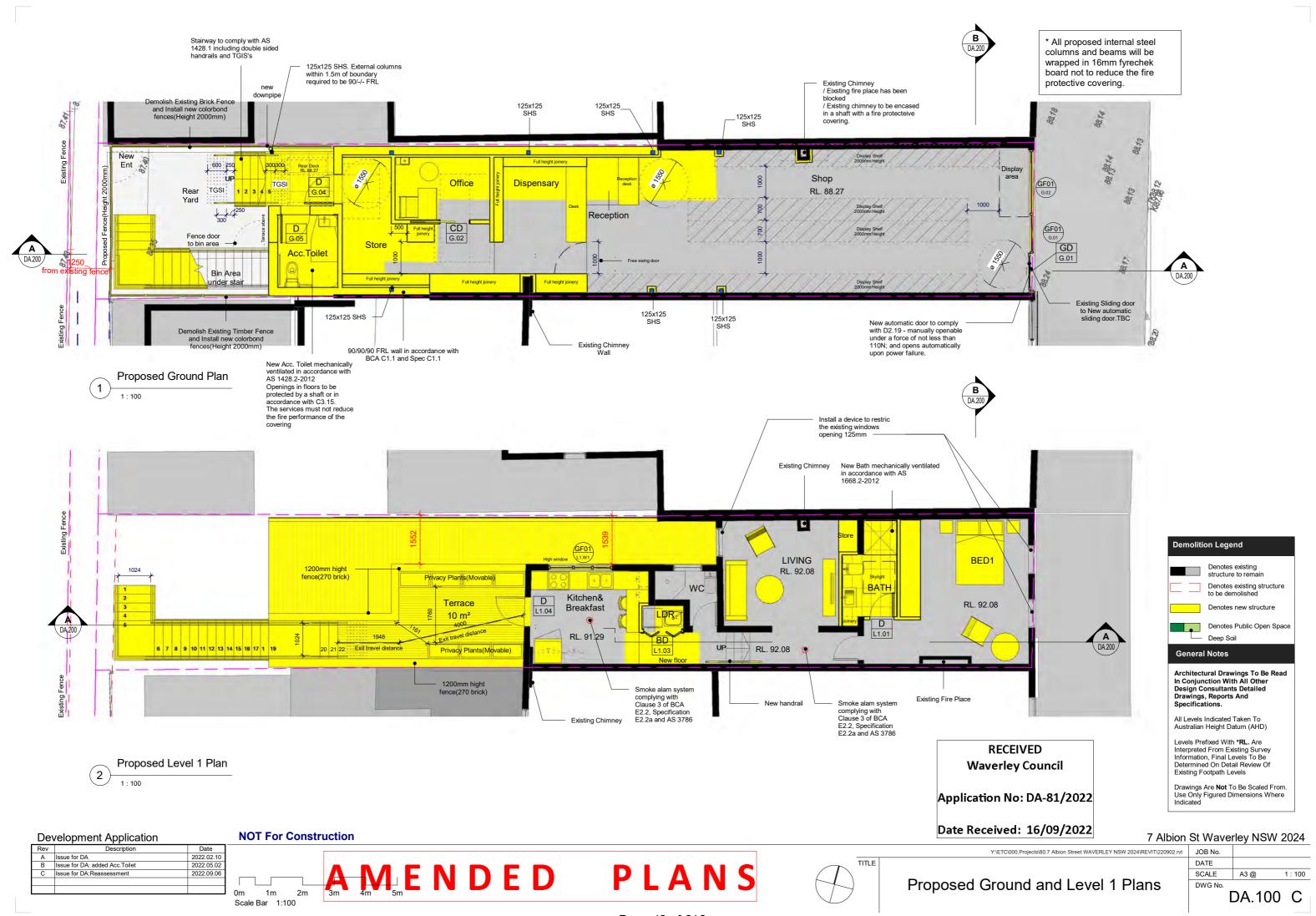
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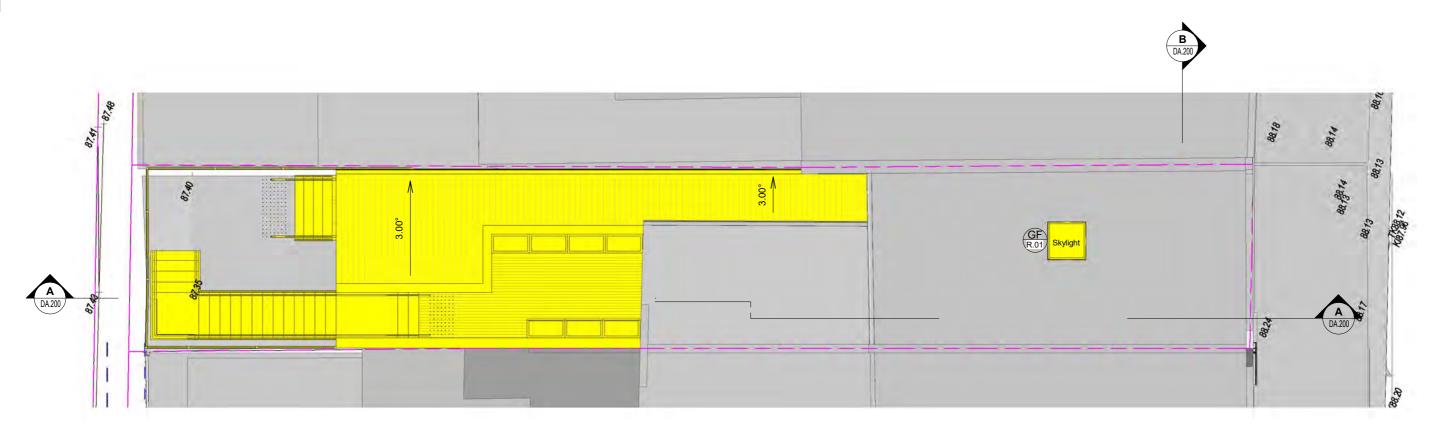
**RECEIVED** 

**Waverley Council** 

Application No: DA-81/2022

Date Received: 16/09/2022

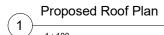




Door hardware- by others. Refer to

Grade A safety glass to AS1288 Vision strip to glazing to AS1428

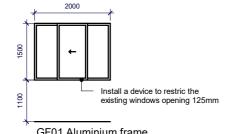
Ex.Level 1



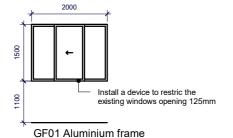


SW VELUX Fixed Skylight(FCM); 665x870 Product Colour. Ironstone®

Location



Sill Height



an	ne		GD	GF0 <sup>-</sup>		GF01 G.02		В [	Fire rated Vision panel 100x600	D	CD
	Description	Comments	Level	Type Mark	Mark	Height	Width	Description		Comments	
	Aluminium	Fixed (non-opening) flat roof skylight	Ex.Ground	GD	G.01	2575	1172	Aluminium Frame			
			Ex.Ground	CD	G.02	2100	920				
			Ex.Ground	D	G.04	2100	920	Steel Frame	-/60/30 FRL Self Closing		
			Ex.Ground	D	G.05	2100	920	Steel Frame	-/60/30 FRL Self Closing		
	December	O	Ex.Ground: 4	•	•	•	•	•	•		
	Description	Comments	Ex.Mezz	BD	L1.03	2100	1200	Timber Frame			
	Aluminium	align with existing glazing height(approx.2625)	Ex.Mezz: 1					1	1		
	A I	- I'	LA.IVICZZ. I								

4494

GD G.01

Mark	Location	Window Style	Width	Height	Sill Height	Description	Comments
G.01	Ent	GF01	2494	COS	0	Aluminium	align with existing glazing height(approx.2625)
G.02	Ent	GF01	2000	cos	0	Aluminium	align with existing glazing height(approx.2625)
L1.W1	Living	GF01	2000	1500	1100	Aluminium	

Height

**NOT For Construction** 

Scale Bar 1:100

**RECEIVED Waverley Council** 

-/60/30 FRL Self Closing/ Fire rated vision panel

Application No: DA-81/2022

Date Received: 16/09/2022

Drawings Are **Not** To Be Scaled From. Use Only Figured Dimensions Where Indicated

BD

Demolition Legend

**General Notes** 

Denotes existing structure to remain Denotes existing structure

Denotes new structure Denotes Public Open Space

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.

All Levels Indicated Taken To Australian Height Datum (AHD)

Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels

De	Development Application							
Rev	Description	Date						
Α	Issue for DA	2022.02.10						
В	Issue for DA: added Acc.Toilet	2022.05.02						
С	Issue for DA:Reassessment	2022.09.06						

1m

Width

A MENDED PLANS



Timber Frame

Proposed Roof Plan

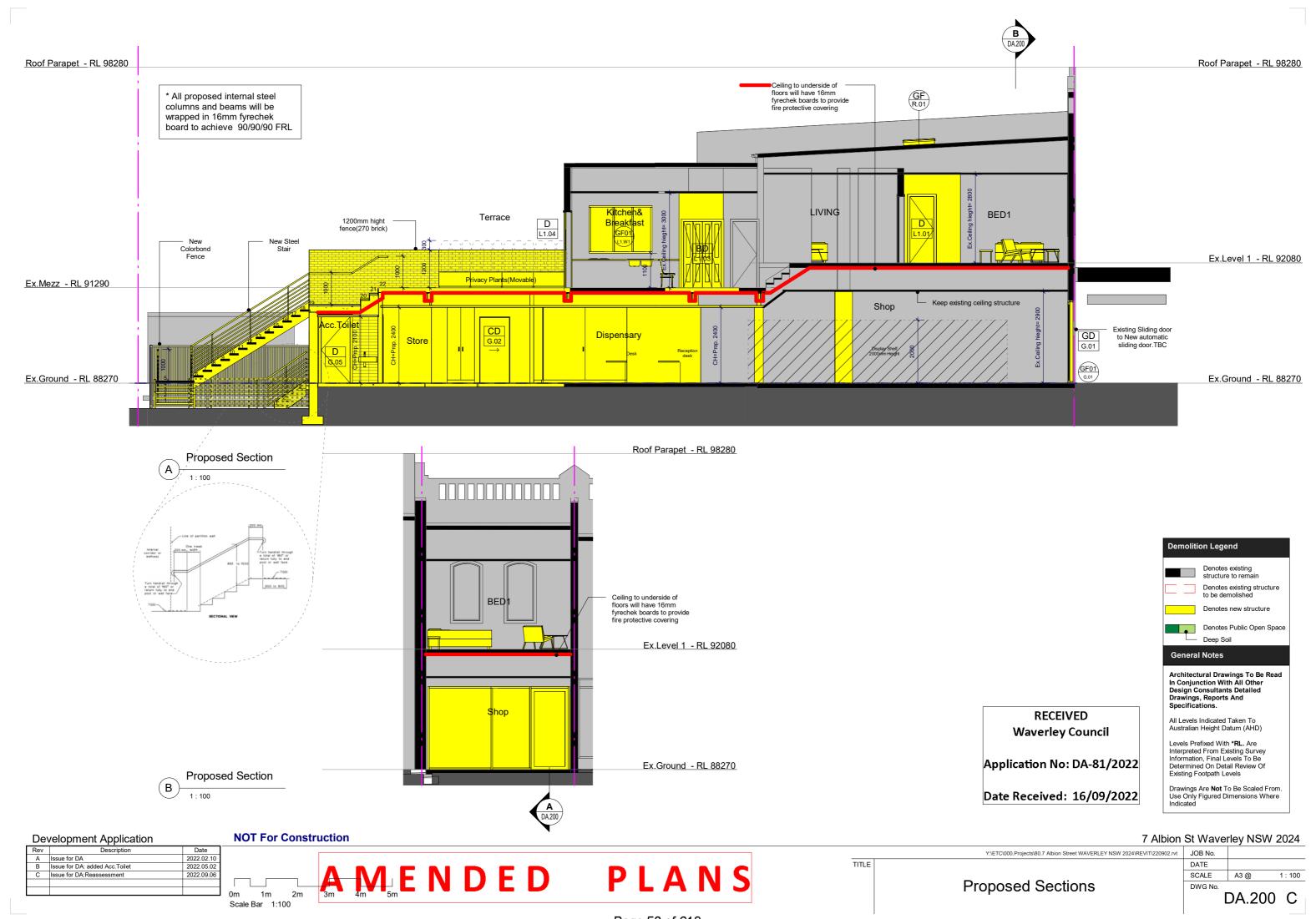
7 Albion St Waverley NSW 2024 Y:\ETC\000.Projects\80.7 Albion Street WAVERLEY NSW 2024\REVIT\220902.rvt JOB No.

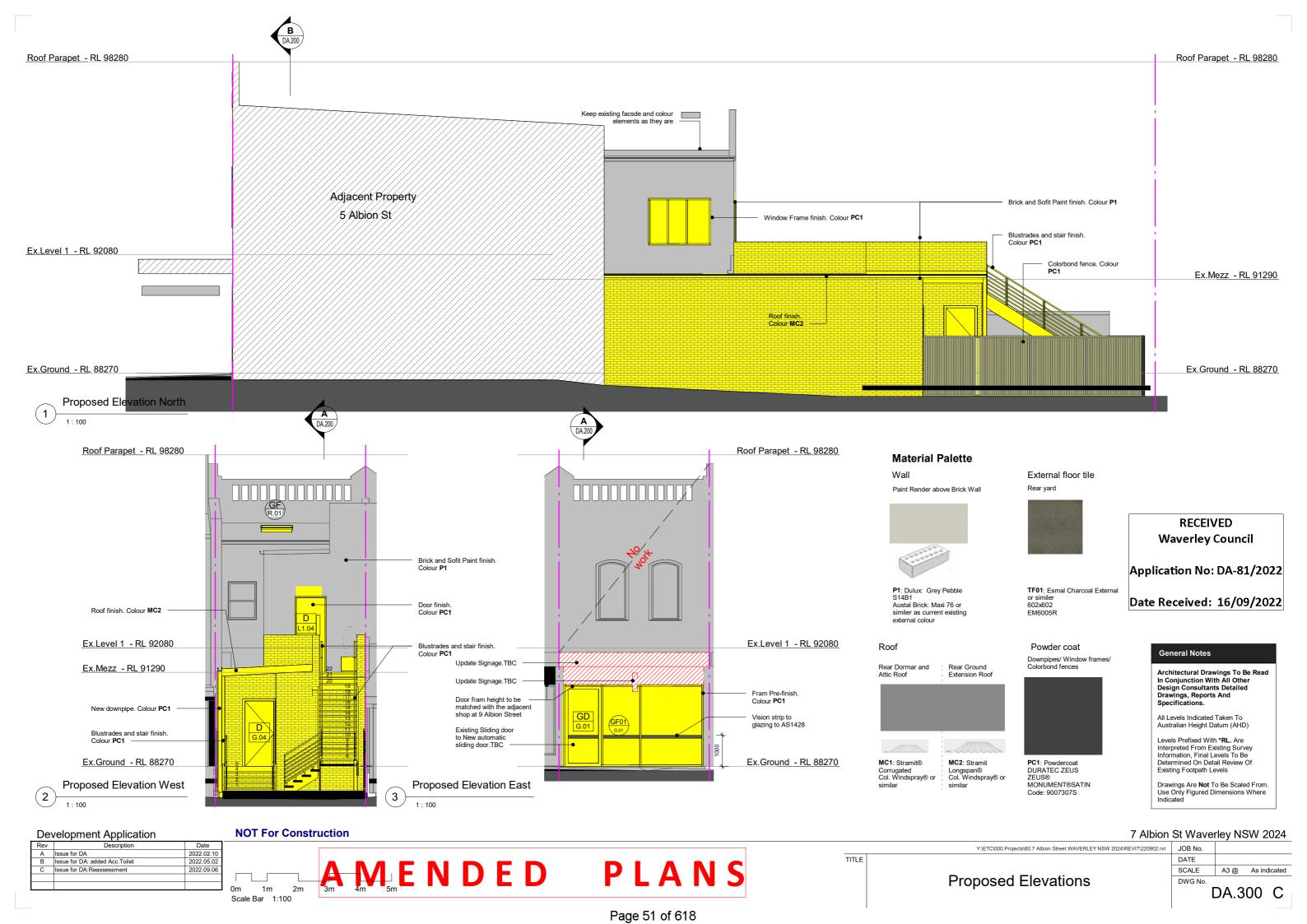
SCALE

DWG No DA.101 C

1:100

A3 @

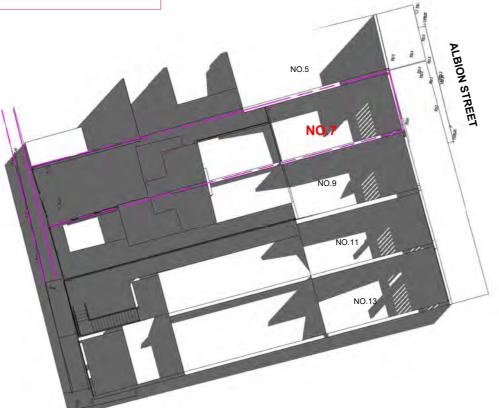




AMENDED Application No: DA-81/2022 A DA.200 Date Received: 16/09/2022 No work to existing (currently off-white colour) NO.9 **NO.7** 4830 MediADVICE **CHARING CROSS PHARMACY PHARMACY** Sign 1 at Awning facia 4500 MediADVICE **CHARING CROSS PHARMACY** PHARMACY Sign 2 at Shopfront Sign 3 under Awning LED Lighting Strip Inside by Others MediADVICE LED Lighting Strip Inside by Others PHARMACY 4830 Sign 4 Window display behind MediADVICE 1. Sign at Awning Fascia.TBC **CHARING CROSS PHARMACY** PHARMACY © 2. Sign at Shopfront.TBC MediADVICE **CHARING CROSS PHARMACY**  Sign under Awning to Existing signage zone.TBC to be matched with the adjacent shop at 9 Albion Street Sign Window display behind.TBC **General Notes** Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications. All Levels Indicated Taken To Australian Height Datum (AHD) Vision strip to glazing to AS1428 Ex.Ground - RL 88270 Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels Colour PC1 Drawings Are **Not** To Be Scaled From. Use Only Figured Dimensions Where Indicated **NOT For Construction Development Application** 7 Albion St Waverley NSW 2024

RECEIVED
Waverley Council

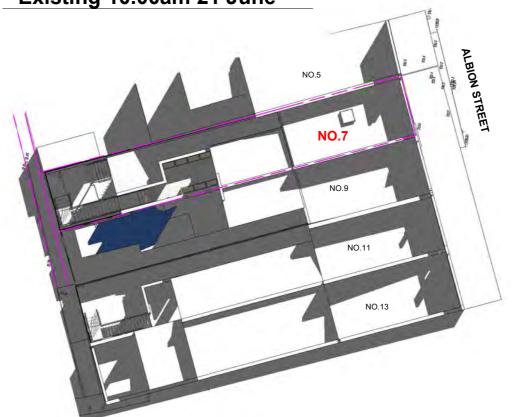
# AMENDED





Proposed 09.00am 21 June

Existing 10.00am 21 June



Proposed 10.00am 21 June

### Development Application

Development Application						
Rev	Description	Date				
Α	Issue for DA	2022.02.10				
В	Issue for DA	2022.02.10				
С	Issue for DA: added Acc.Toilet	2022.05.02				
D	Issue for DA: shadow information for DBU	2022.08.08				
	locus for DA-Rossossment	2022 00 06				

**NOT For Construction** 

0m	3m	6m	9m	12m	15m
Scale	Bar 1:3	00			

SCALE DWG No

Shadows Legend:

Existing Shadow

Proposed Shadow

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.

All Levels Indicated Taken To Australian Height Datum (AHD)

Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels

**RECEIVED** 

**Waverley Council** 

Application No: DA-81/2022

Date Received: 16/09/2022

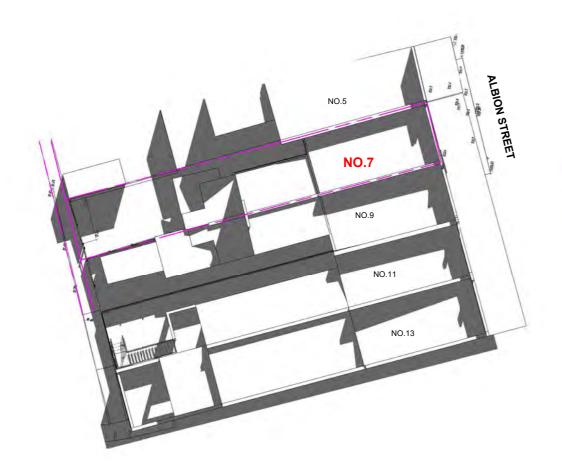
Existing and Prooposed Shadows Winter -Sheet 1

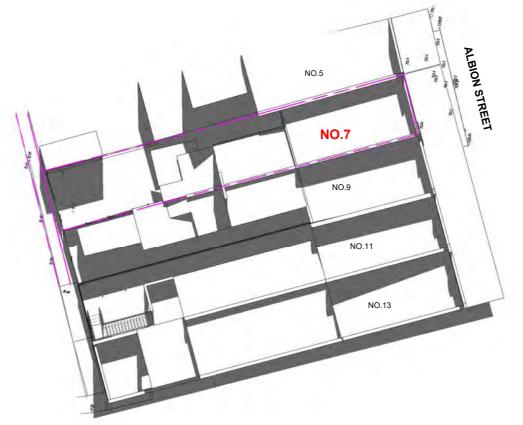
7 Albion St Waverley NSW 2024 C:\Users\kx3\_r\Desktop\80.7 Albion Street WAVERLEY NSW 2024\REVIT\220902.rvt JOB No.

Drawings Are **Not** To Be Scaled From. Use Only Figured Dimensions Where Indicated

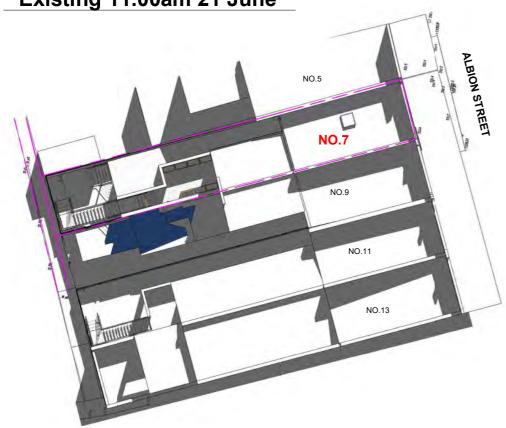
DA.070 E

A3 @ As indicated

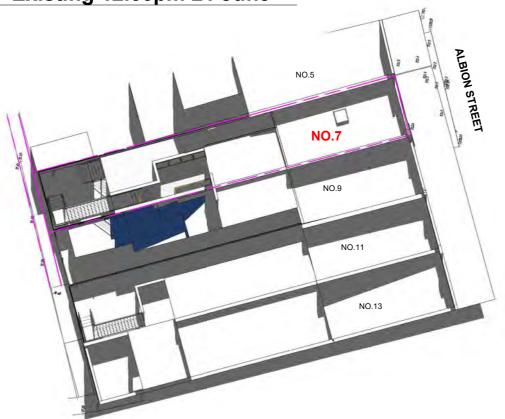




Existing 11.00am 21 June



Existing 12.00pm 21 June



Proposed 11.00am 21 June

**NOT For Construction** 

Proposed 12.00pm 21 June

SCALE

Shadows Legend:

Existing Shadow Proposed Shadow

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.

All Levels Indicated Taken To Australian Height Datum (AHD)

Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels

**Development Application** Date 2022.08.08 2022.09.06

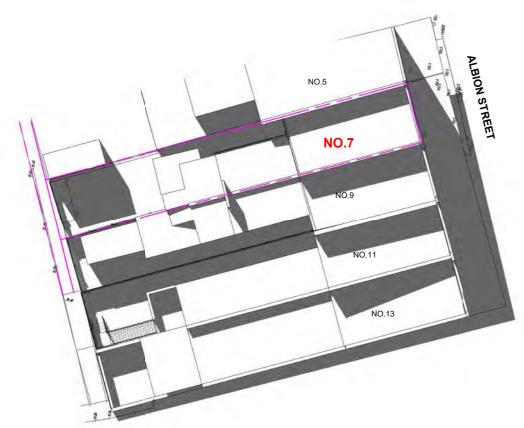
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Existing and Prooposed Shadows Winter -Sheet 2

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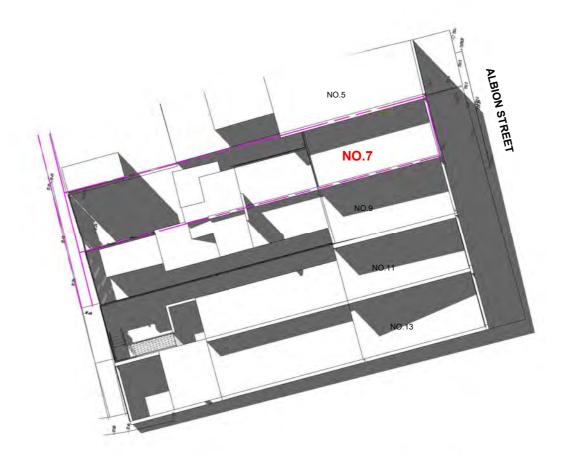
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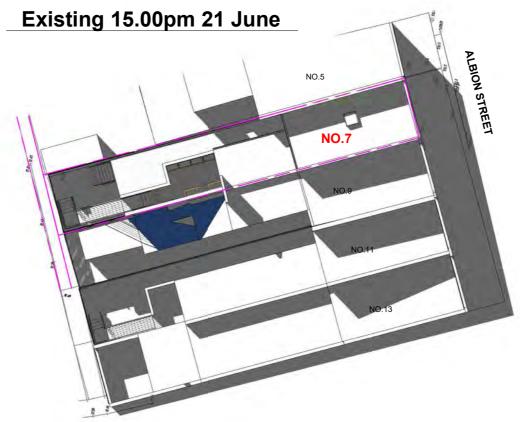
A3 @ As indicated DWG No. DA.071 B





Proposed 02.00pm 21 June





Proposed 15.00pm 21 June

Levels Prefixed With \*RL. Are Interpreted From Existing Survey Information, Final Levels To Be Determined On Detail Review Of Existing Footpath Levels

Drawings Are **Not** To Be Scaled From. Use Only Figured Dimensions Where Indicated

### Development Application

Rev	Description	Date
Α	Issue for DA: shadow information for DBU	2022.08.08
В	Issue for DA:Reassessment	2022.09.06

**NOT For Construction** 

0m 3m 6m 9m 12m 15m

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7 Albion St Waverley NSW 2024

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Shadows Legend:

Existing Shadow

Proposed Shadow

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.

All Levels Indicated Taken To Australian Height Datum (AHD)

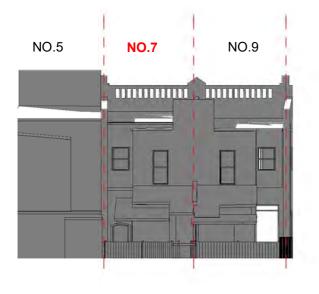
Existing and Prooposed Shadows Winter - Sheet 3

JOB No.

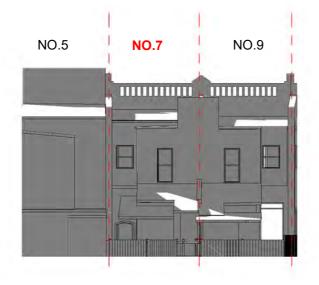
DATE
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DWG No.

DA.072 B

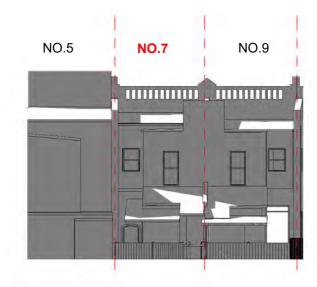
Page 55 of 618



Existing.09.00am 21 June



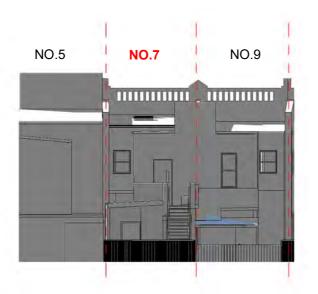
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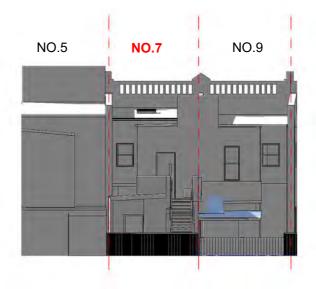
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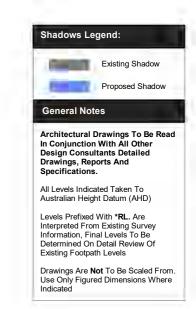
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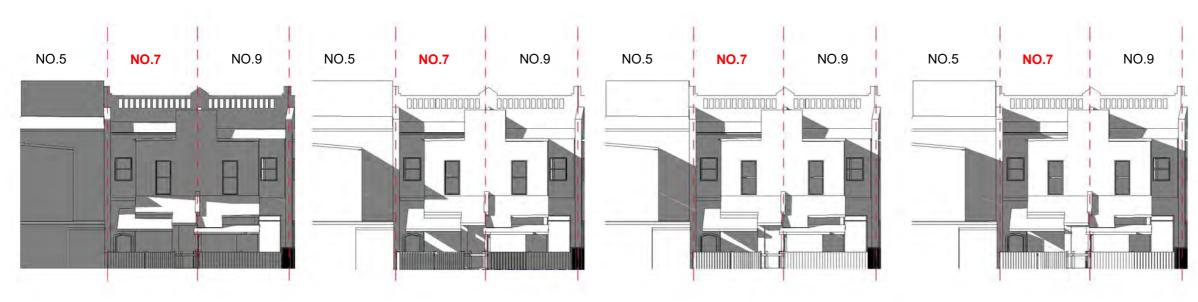
Proposed.10.00am 21 June



Proposed.11.00am 21 June



**NOT For Construction** 7 Albion St Waverley NSW 2024 **Development Application** Date JOB No. 2022.09.06 Existing and Proposed Shadows 9 Albion SCALE A3 @ DWG No. St SouthWest Elevations Winter - Sheet 1 DA.075 B



Existing.12.00pm 21 June

Existing.13.00pm 21 June

Existing.14.00pm 21 June

Existing.15.00pm 21 June



Proposed.12.00pm 21 June Proposed.13.00pm 21 June Proposed.14.00pm 21 June Proposed.15.00pm 21 June

All Levels Indicated Taken To
Australian Height Datum (AHD)

Levels Prefixed With \*RL. Are
Interpreted From Existing Survey
Information, Final Levels To Be
Determined On Detail Review Of
Existing Footpath Levels

Drawings Are Not To Be Scaled From.
Use Only Figured Dimensions Where
Indicated

Shadows Legend:

Existing Shadow

Proposed Shadow

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.

Development Application NOT For Construction 7 Albion St Waverley NSW 2024

Rev	Description	Date
Α	Issue for DA: shadow information for DBU	2022.08.0
В	Issue for DA:Reassessment	2022.09.0

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TITLE	
	Existing and Proposed Shadows 9 Albion
	St SouthWest Elevations Winter - Sheet 2

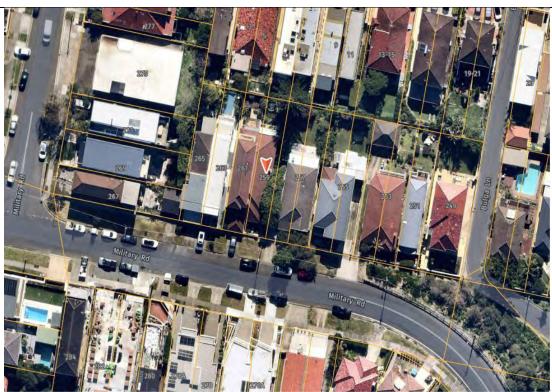




# Report to the Waverley Local Planning Panel

Application number	DA-473/2021/A
Site address	259 Military Road, Dover Heights
Proposal	Modification to alter internal layout, setbacks, windows and removal of condition 2.
Description of Approved Development	Alterations and additions to semi-detached dwelling including first floor addition, carport and swim spa.
Date of lodgement	25 May 2022
Owner	Mr B M Berman
Applicant	Jmh Living Design
Submissions	Nil
Amended cost of works	No change.
Principal Issues	<ul><li>Front building line.</li><li>Compliance with condition 2.</li><li>Privacy.</li></ul>
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.

# SITE MAP



### 1. PREAMBLE

### 1.1. Executive Summary

The modification application seeks to modify development consent, known as DA-473/2021/A for alterations and additions to semi-detached dwelling including a first floor addition, carport and swim spa at 259 Military Road, Dover Heights. In summary, the proposed modifications are for amending the first floor front and rear setbacks, associated amendments to the roof, and changes to openings on the eastern elevation.

The principal issues arising from the assessment of the application are as follows:

- Front building line;
- Non-compliance with condition 2 of consent imposed by the Waverley Local Planning Panel (WLPP); and
- Privacy.

The assessment finds these issues to be acceptable subject to the conditions of consent.

No submissions were received during the notification period.

The application has been assessed against the relevant matters for consideration under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 29 August 2022.

The site is identified as Lot A in DP106273, known as 259 Military Road, Dover Heights.

The site is rectangular in shape with a frontage of 6.095m to Military Road. It has an area of 215.1m<sup>2</sup> and falls from the south (front) to the north (rear) by approximately 3.7m.

The site is occupied by a part-one, part-two storey semi-detached dwelling house with no on-site parking.

Located to the west of the site is the adjoining part two, part three storey semi-detached dwelling at 261 Military Road. To the east, the site is adjoined by a part one, part two storey dwelling house at 257 Military Road.

The locality is characterised by a variety of low-density residential development.

Figures 1 to 4 are photos of the site and its context.



Figure 1: View of the site as viewed facing south.



Figure 2: Rear of the site as viewed facing north.



Figure 3: View of the site facing north-west.



Figure 4: Eastern setback with windows proposed to be amended.

### 1.3. Details of Approved Development

The original development application, known as DA-473/2021 for alterations and additions to semi-detached dwelling including a first floor addition, carport and swim spa was granted consent on 23 February 2022 by the Waverley Local Planning Panel (WLPP).

The following condition from the development consent has direct relevance to this modification application:

• 2 (c) The southern front wall of the proposed additional storey (1st floor level) is to be set back to align with the southern wall of the first floor of number 261 Military Rd. Internal rearrangement of 1st floor level can be undertaken as long as the window locations and size do not change.

### 1.4. Proposal

The modification application has been submitted under section 4.55 (2) of the *Environmental Planning* and Assessment Act 1979. It seeks consent for the following modifications to the approved development:

- Replacing the ground floor eastern windows to the living/dining room.
- Reducing the first floor northern (rear) setback so that the façade aligns with the adjoining semi.
- Deleting condition 2(c) to enable the amendments to the first floor southern (front) façade.
- Maintaining the originally proposed front setback at the first floor with an increased setback on the common boundary.
- Including a second window on the first floor southern façade.
- Amendments to the design of the roof in accordance with the front and rear alignment amendments.

### 1.5. Background

The following background is relevant to the application:

- 1. On 23 February 2022, Development Application DA-473/2021 was granted consent by the Waverley Local Planning Panel (WLPP). As part of the determination, the Panel applied the following condition of consent:
  - 2 (c) The southern front wall of the proposed additional storey (1st floor level) is to be set back to align with the southern wall of the first floor of number 261 Military Rd. Internal rearrangement of 1st floor level can be undertaken as long as the window locations and size do not change.
- 2. On 25 May 2022, the subject Modification Application (DA-473/2021/A) was lodged with Council.
- 3. On 21 September 2022, the applicant submitted amended plans to correct minor errors identified throughout the plans.
- 4. On 29 September 2022, amended plans which clearly and consistently identify all proposed amends throughout the plans were requested from the applicant.
- 5. On 5 October 2022, the applicant submitted amended plans. The amended plans did not require notification as they did not result in any new or additional impacts on the streetscape or neighbouring properties.

### 2. ASSESSMENT

The following matters are to be considered in the assessment of this modification application under relevant sections of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. Section 4.55 – Modification of consents – generally

The application is made under section 4.55(2) of the Act.

The quantitative and qualitative elements and impacts between the approved development and the development as proposed to be modified, are not considered overly dissimilar. In this regard, the proposal is considered to be *substantially the same* as the originally approved development with regard to matters arising from the NSW Land and Environment Court case of *Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298*.

The application was publicly notified, and no submissions were received.

### 2.2. Evaluation of Matters for Consideration under Section 4.15

In accordance with section 4.55(3) of the Act, following is an assessment of the proposed modifications of the development consent against the relevant matters for consideration under section 4.15(1) of the Act.

### 2.2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this modification application:

- SEPP 55 Remediation of Land.
- SEPP (Building Sustainability Index BASIX) 2004.

Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The land use definition of the approved development as a *semi-detached dwelling* remains unchanged and continues to be permitted development in the R2 Low Density Residential zone under Waverley LEP 2012.

The quantities of the approved development, as proposed to be modified, have changed as outlined in **Table 1** of this report in relation to principal development standards under Waverley LEP 2012. All other relevant provisions of Waverley LEP 2012 remain compliant.

Table 1: Waverley LEP 2012 Compliance Table

Provision	Approved	Proposed Modified	Compliance
4.3 Height of buildings  • 8.5m	10.1m (breach 18.82% or 1.6m)	10.08m (breach of 18.58% or 1.58m)	No
<ul><li>4.4 Floor space ratio and</li><li>4.4A Exceptions to floor space ratio</li><li>0.868:1</li></ul>	0.868:1 / GFA of 186.9m <sup>2</sup>	0.873:1 / 187.8m <sup>2</sup> (breach of 1.01m <sup>2</sup> )	No

### **Height of Buildings**

The proposal includes a minor extension towards the rear, to align the first floor southern façade with the adjoining semi, with associated amendments to the roof over.

The proposal does not involve any change to the overall height of the development. The slight difference between the approved and proposed building height as detailed in **Table 1** above is attributed to calculation rounding in the initial assessment.

The amendments to the rear of the dwelling which exceed the building height development standard will not result in any adverse impacts on the neighbouring properties with regard to bulk and scale or overshadowing, and will result in an improved built form relationship with the adjoining semi. It is therefore consistent with the relevant objectives of the height of buildings development standard and is supported.

### Floor Space Ratio (FSR)

The amendments to the first floor result in a minor breach of the FSR development standard of 1.01m<sup>2</sup>. As discussed below, the proposed first floor front setback is not supported, and therefore, condition 2(c) of the consent is recommended to be reaffirmed to result in an increased front setback of the first floor addition, thereby reducing the GFA/FSR of the proposal to a compliant scheme.

Through complying with the conditions of consent, the proposal will not result in any additional or adverse impacts on the streetscape or neighbouring properties with regard to bulk and scale.

### Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The proposal has been assessed against the relevant parts and sections of Waverley DCP 2012. Only the following parts and sections of Waverley DCP 2012 as detailed in **Tables 2** and **3** of this report apply to the proposed modifications.

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment	
Ecologically Sustainable     Development	Yes	Satisfactory. An updated BASIX was submitted.	
5. Vegetation Preservation	Yes	No tree removal is proposed.	
6. Stormwater	Yes	Satisfactory. Council's Stormwater Engineer raised no objection with all existing conditions to remain.	
12. Design Excellence	No	Unsatisfactory. The front setback proposed at the first floor would be contrary to condition 2(c) imposed by the WLPP, and would not result in an appropriate relationship with the adjoining semi, or a desirable outcome with regard to visual amenity and design excellence in accordance with planning control (a), (b), (d), and (e)(iv) under section 12.1 of WDCP 2012.  The deletion of condition 2(c) is therefore not supported.	

Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table

Development Control	Compliance	Comment
2.0 General Objectives		
	No	The proposed front setback would detract from the amenity of the streetscape, and would not demonstrate an appropriate response to the adjoining semi. The proposal would not be sympathetic with the desired future character of the locality with regard to bulk and character, and would not satisfy general objectives (a), (b), and (d).  The deletion of condition 2(c) is therefore not supported.
2.1 Height		Supported.
Pitched roof dwelling house  Maximum external wall height of 7m	No	The proposal comprises a wall height of 8.495m on the northern (rear) elevation. The proposal will maintain a wall height which is consistent with the approved development and the amendments at the rear will not result in adverse impacts on the neighbouring properties with regard to bulk and scale, overshadowing or views.
2.2 Setbacks		
2.2.1 Front and rear building lines	No	The proposed rear setback will result in a more appropriate response to the adjoining semi and will not result in any adverse impacts on amenity.

<b>Development Control</b>	Compliance	Comment
<ul> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> <li>2.2.2 Side setbacks</li> <li>Minimum of 0.9m (for height up to 8.5m) or 1.2m (height noncompliant 2 storey</li> </ul>	No (acceptable on merit)	The proposal seeks to amend the first floor front alignment to enable the majority of the façade, to sit forward of the adjoining semi by 1.5m.  The amendments proposed to the front setback are not supported as they would be contrary to condition 2(c) imposed by the WLPP, would not be in keeping with the adjoining semi, and would visually detract from the amenity of the streetscape.  Accordingly, the deletion of condition 2(c) is not supported.  Through complying with condition 2(c), the proposal will not detract from the amenity of the streetscape in accordance with objectives (a) and (f) under section 2.2 of WDCP, and will better respond to the adjoining semi.  Satisfactory. At the first floor, the proposal comprises a setback of 1.1m from the eastern property boundary, which does not comply with the 1.2m minimum setback requirement for development that exceeds the 8.5m building
dwelling)		height development standard. The setback is however consistent with the approved development and is acceptable.
2.3 Streetscape and visual imp	pact	
<ul> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style</li> </ul>	No	In seeking to delete condition 2(c) and amend the front alignment, the proposal would not enhance the built form or minimise visual amenity impacts on the streetscape.
and proportions of existing dwelling		The assessment has found the references within the Statement of Environmental Effects of semidetached dwellings within the locality to be undesirable outcome examples of conflictingfront setbacks of first floor levels of pairs of semi-detached dwellings.
2.5 Visual and acoustic privacy		
Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures	No	The proposal includes three new living / dining room windows (W12, W13 and W14) on the ground floor east façade. The windows will improve the existing north-east and east facing ocean views from the subject property.  The assessment has found that the windows will however result in impacts on the privacy of 257 Military Road by enabling overlooking of their rear deck.

Development Control	Compliance	Comment
are incorporated into the design  2.6 Solar access	Compliance	The new windows will be of a similar size and positioning to the existing windows in this location, which currently overlook the neighbouring property.  On the basis that there are existing privacy impacts and retention of views is given a higher weighting to privacy in accordance with planning control (d) under section 2.7 in relation to views, the proposal is found to be acceptable.
<ul> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% I of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	Yes	The proposal would not result in the neighbouring properties receiving less than 3 hours solar access of their private open space and would not result in any unreasonable overshadowing of habitable room windows.
Views     Views from the public domain are to be maintained     Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.	Yes	The proposal will not result in any impacts on views from neighbouring properties.
<ul> <li>2.13 Semi-detached dwellings</li> <li>2.13.1 - Built form</li> <li>Additions to match the style of the original semi-detached dwelling</li> <li>Existing roof form maintained forward of principal ridgeline</li> </ul>	No No	The proposed front alignment would detract from the visual cohesion between the pair of semis and would not contribute to the retention of the original style, form and appearance of the dwellings.  Through complying with condition 2(c), a greater provision of the existing roof and original roof material at the front of the dwelling can be retained in accordance with condition 2(b) and planning control (c).

Development Control	Compliance	Comment
<ul> <li>2.13.2 - First floor additions to semi-detached dwellings</li> <li>First floor addition to be setback from the principal street frontage and maintain the existing front roof slope</li> <li>Additions to be located a minimum of 1m behind the front main gable</li> <li>Limit the rise of the interface with adjoining semi-detached dwelling to 600mm</li> <li>First floor additions should match the style of the additions on the adjoining semi (if relevant).</li> </ul>	No	Through the retention of condition 2(c), the proposal will maintain the principal traverse ridge line in accordance with planning control (d), which will contribute to the dwelling's relationship with the style and character of adjoining semi and maintain the appearance of the dwelling being one of a pair.  Setting the first floor back in line with the adjoining semi will also contribute to the presentation of the pair of semisto the street as cohesive.
<ul> <li>2.13.3 - Material finishes and detail for semi-detached dwellings</li> <li>Finishes and detailing are to be cohesive with the existing dwelling</li> <li>Historic features of the roofscape are to be incorporated into the addition</li> <li>Dorms roof forms are to match the style of the original dwelling</li> <li>New windows to have a similar proportion to the existing</li> <li>Upper wall finishes to reflect the style and character of the original building.</li> </ul>	Yes	Through complying with condition 2(c), the proposal will retain a greater portion of the existing roof at the front of the dwelling which will contribute to the dwellings relationship with the adjoining semi through retention of the original materials, design, and character.

# 2.2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

### 2.2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

### 2.2.4. Any Submissions

The application was notified for 14 days between 2 June and 16 June 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not re-notified as the amended plans did not result in any new or additional impacts on the neighbouring properties.

No submissions were received.

### 2.2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

### REFERRALS

The following internal and external referral comments were sought:

### 3.1. Stormwater

Council's Stormwater Engineering Department raised no objection to the proposal. All stormwater condition applied at under DA-473/2021 are to remain unchanged.

### 4. CONCLUSION

The modification application seeks to modify development consent, known as DA-473/2021 for alterations and additions to a semi-detached dwelling including a first floor addition, carport and swim spa at the site known as 259 Military Road, Dover Heights. In summary, the proposed modifications are for amendments to the first floor front and rear alignment and changes to openings.

The principal issues arising from the assessment of the application are as follows:

- First floor front alignment and compliance with condition 2(c); and
- Privacy.

The assessment finds these issues acceptable when complying with the conditions of consent.

The application has been assessed against relevant sections of the Act and is recommended for approval, except for supporting the proposed deletion of condition 2(c) of the consent in relation to the front setback of the first floor addition.

### Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 13 September 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A, including retention of condition 2(c).

DBU members: M Reid, A Rossi, B McNamara, B Magistrale and T Sneesby.

### 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the modification application be APPROVED by the Waverley Local Planning Panel subject to the amended condition in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:	
K.K.	A.	
Karis Keenan	Ben Magistrale	
Senior Development Assessment Planner	Manager, Development Assessment (Area 2)	
	(Reviewed and agreed on behalf of the	
	Development and Building Unit)	
Date: 6 October 2022	Date: 13 October 2022	

### Reason for WLPP referral:

The consent authority for the original development application was the WLPP, this modification is made under section 4.55(2) of the Act and relates to:

3. Departure from any development standard in an EPI by more than 10%

### AND

 Proposed amendments to a condition of development consent that was not included in the Council assessment report but which was added by the WLPP.

# APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

### A. Amended Conditions

### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by JMH Living Design including the following:

Plan Number and	Plan description	Plan Date	Date received by
Revision			Council
02-01 / Rev C	Site Plan	19/01/2022	01/02/2022
02-02 / Rev C	Lower Ground Floor	19/01/2021	01/02/2022
	Level		
02-03 / Rev C	Ground Floor Level	19/01/2021	01/02/2022
02-04 / Rev C	First Floor Level	19/01/2021	01/02/2022
03-01 / Rev C	Northern and	19/01/2021	01/02/2022
	Southern Elevation		
03-02 / Rev C	Eastern Elevation	19/01/2021	01/02/2022
03-03 / Rev C	Western Elevation	19/01/2021	01/02/2022
04-01 / Rev C	Section 1 and 2	19/01/2021	01/02/2022
04-02 / Rev C	Section 3 and 4	19/01/2021	01/02/2022
07-01 / Rev C	Driveway / Carport	19/01/2021	01/02/2022
	Details		

### (i) As amended by architectural plans prepared by JMH Living Design including the following:

Plan Number and	Plan description	Plan Date	Date received by
Revision			Council
07-03	Ground Floor, South Elevation	4/10/2022	5/10/2022
07-04	First Floor Level Per DA General Condition 2C	4/10/2022	5/10/2022
07-05	Elevations As Per DA General Condition 2C	4/10/2022	5/10/2022

AMENDED BY DA-473/2021/A

- (b) BASIX Certificate.
- (c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 28/10/2021.

Except where amended by the following conditions of consent.

### APPENDIX B – FULL SET OF CONDITIONS

### A. APPROVED DEVELOPMENT

### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by JMH Living Design including the following:

Plan Number	Plan description	Plan Date	Date received by
and Revision			Council
02-01 / Rev C	Site Plan	19/01/2022	01/02/2022
02-02 / Rev C	Lower Ground Floor Level	19/01/2021	01/02/2022
02-03 / Rev C	Ground Floor Level	19/01/2021	01/02/2022
02-04 / Rev C	First Floor Level	19/01/2021	01/02/2022
03-01 / Rev C	Northern and Southern Elevation	19/01/2021	01/02/2022
03-02 / Rev C	Eastern Elevation	19/01/2021	01/02/2022
03-03 / Rev C	Western Elevation	19/01/2021	01/02/2022
04-01 / Rev C	Section 1 and 2	19/01/2021	01/02/2022
04-02 / Rev C	Section 3 and 4	19/01/2021	01/02/2022
07-01 / Rev C	Driveway / Carport Details	19/01/2021	01/02/2022

(i) As amended by architectural plans prepared by JMH Living Design including the following:

Plan Number	Plan description	Plan Date	Date received by
and Revision			Council
07-03	Ground Floor, South Elevation	4/10/2022	5/10/2022
07-04	First Floor Level Per DA General	4/10/2022	5/10/2022
	Condition 2C		
07-05	Elevations As Per DA General	4/10/2022	5/10/2022
	Condition 2C		

**AMENDED BY DA-473/2021/A** 

- (b) BASIX Certificate
- (c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 28/10/2021.

Except where amended by the following conditions of consent.

### 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) A materials and finishes schedule that does not include multiple options is to be provided.
- (b) The material of the roof is to match the existing roof material.
- (c) The southern front wall of the proposed additional storey (1st floor level) is to be set back to align with the southern wall of the first floor of number 261 Military Rd. Internal rearrangement of 1st floor level can be undertaken as long as the window locations and size do not change.

The amendments are to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

### **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

### 3. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & Assessment Act, 1979 and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

### 4. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act, 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

### **CONTRIBUTIONS, FEES & BONDS**

### 5. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:

"Waverley Council Cost Summary Report"; or,

(ii) Where the total development cost is \$500,000 or more:

"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are in the Waverley Council

Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy.
  - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% OR
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% based on the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### 6. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$8,940.00 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### 7. LONG SERVICE LEVY

A long service levy, as required under Section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

#### 8. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

### **CONSTRUCTION MATTERS**

## 9. HOARDING

To ensure the site is contained during construction, if hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

#### 10. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

#### 11. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

# 12. ENGINEERING CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

#### 13. EXISTING PARTY WALL IS TO BE EXTENDED

The existing separating wall is to be extended to the underside of the roof in accordance with the requirements of the National Construction Code. All work to the separating wall must be contained within the boundaries of the subject site only, unless agreement between neighbours for work affecting both sides of a separating wall, including written consent of all owners of all properties upon which work will take place has been obtained.

#### 14. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

#### 15. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development\_applications/post\_determination/development\_applications - conditions of consent\_

#### **STORMWATER & FLOODING**

#### 16. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- c) Any proposed pipeline within the road reserve must fall by gravity at 1% minimum.
- d) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- e) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- f) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in<sup>™</sup> for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to
  ensure any additional damage or unauthorised works within the Council property, not
  conditioned above. Council will reserve the right to withhold the cost of restoring the
  damaged assets from the security deposit should the applicant fail to restore the defects
  to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: <u>assets@waverley.nsw.gov.au</u> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

#### **ENERGY EFFICIENCY & SUSTAINABILITY**

#### 17. BASIX

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

#### WASTE

#### 18. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

#### C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

#### **PRIOR TO ANY WORKS**

#### 19. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### 20. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners on request.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

#### **DEMOLITION & EXCAVATION**

# 21. DEMOLITION - ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

Work Health and Safety Act 2011;

- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or
- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### 22. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

#### 23. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014.

#### **CONSTRUCTION MATTERS**

#### 24. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) Sundays and public holidays;
- (b) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

#### 25. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### **26. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

#### 27. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

#### 28. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building

#### 29. STRUCTURAL STABILITY OF ADJOINING SEMI-DETACHED DWELLING'S ROOF

Adequate measures are to be undertaken to ensure structural stability and water proofing of the existing roof over the adjoining semi-detached dwelling having particular regard to the following:

- (a) Adequate measures are undertaken to secure the existing rafters and ridge to the brickwork of the party wall; and
- (b) Adequate measures are undertaken to ensure that the roof where it abuts the extended party wall is water proofed.

#### **30. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to the construction of swimming pools and outdoor spas:

(a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete

- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

#### TREE PROTECTION AND REMOVAL

#### **31. TREE PROTECTION**

All trees on site and adjoining properties, including street trees are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

### 32. STREET TREES TO BE RETAINED/TREE PROTECTION

The 3-4 trees planted as a hedge between the subject site and 257 Military Rd and the one Araucaria heterophylla (Norfolk Island pine) to the rear of 7A Eastern Avenue Dover Heights, are to be retained and protected in accordance with this condition.

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.

Soil levels are not to be changed around any trees.

To prevent compaction within the root zone, excavation undertaken within the specified radius of the trunks of the following trees must be hand dug. Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed. Any hand excavation must be carried out in the presence of experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

If any tree roots are exposed during any approved works, then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.

If tree roots are required to be removed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process, then Waverley Council's Tree Management Officer is to be contacted to make final determination.

If any trees on neighbouring properties require pruning, then permission must be gained from the owner of the tree(s) and an Application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.

## **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

#### 33. NEW VEHICLE CROSSING

A new vehicle crossing is to be provided to access the proposed carport space. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

The crossing is to be 3.0 metres wide at the property boundary and 3.0 metres wide plus 0.45 metre splays at the street. No structures above 1.15 metres are to be within 2 x 2.5 metre sight triangles measured from the footpath.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

#### 34. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH

The finished level at the property boundary on **both** sides of the vehicle crossing is to match the level of the existing concrete footpath

# D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### 35. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **36. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### 37. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

# 38. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### 39. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its

relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### 40. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design
- (b) Evidence that the swimming pool/outdoor spa have been registered on the State Government Swimming Pool Register (<a href="http://www.swimmingpoolregister.gov.au">http://www.swimmingpoolregister.gov.au</a>)
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council
- (d) A copy of the occupation certificate must be submitted to Council

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

#### **ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to <a href="mailto:info@waverley.nsw.gov.au">info@waverley.nsw.gov.au</a>, in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on <a href="mailto:duty.planner@waverley.nsw.gov.au">duty.planner@waverley.nsw.gov.au</a>

#### **AD2. SYDNEY WATER REQUIREMENTS**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

#### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### AD5. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

## AD6. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

# AD7. BONDI - ROSE BAY SAND BODY

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

#### AD8. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### AD9. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

#### **AD10. RAINWATER HARVESTING AND REUSE**

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

#### **AD11. AUSGRID – OVERHEAD POWERLINES**

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

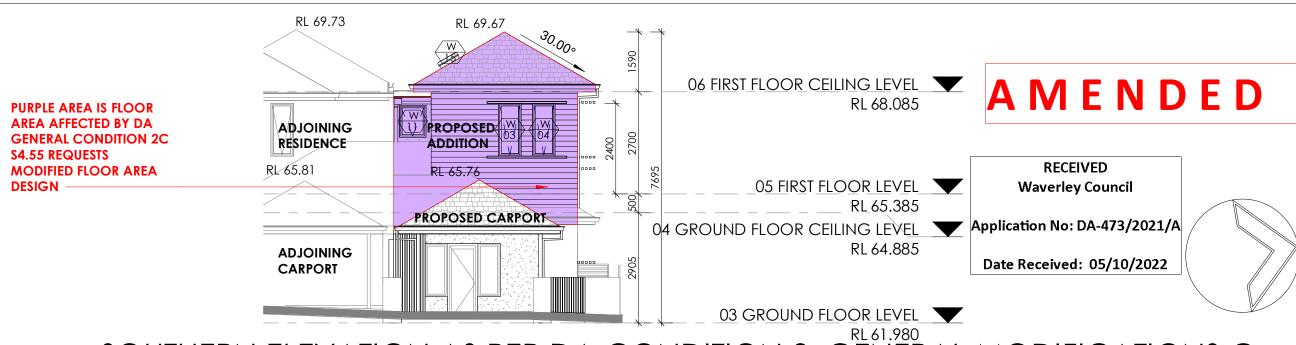
The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

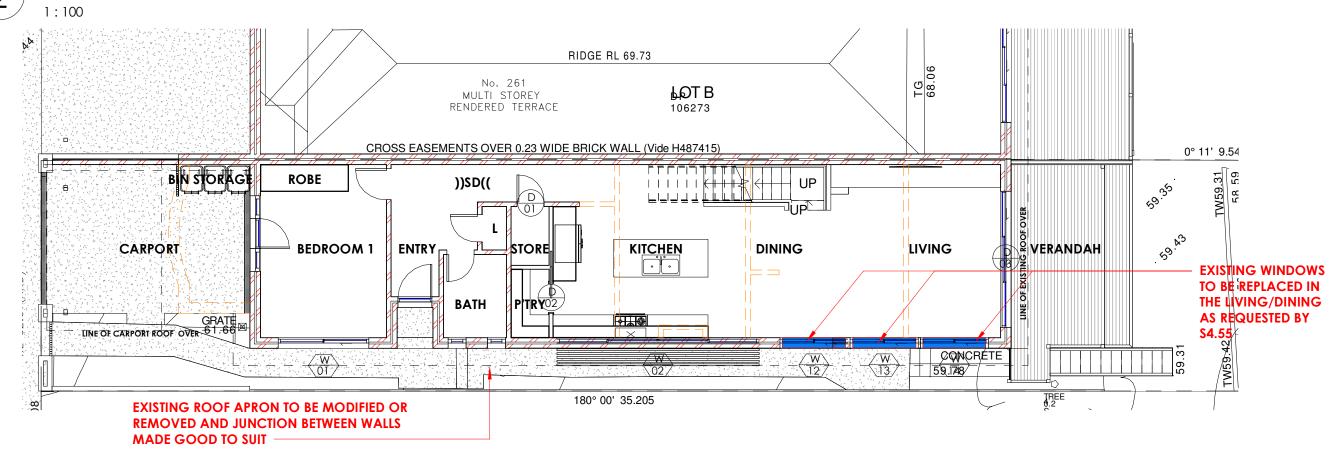
"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au



SOUTHERN ELEVATION AS PER DA CONDITION 2. GENERAL MODIFICATIONS C



# 03 GROUND FLOOR LEVEL AS PER DA CONDITION 2. GENERAL MODIFICATIONS C + WINDOW CHANGES

PROPOSED ALTERATIONS AND ADDITIONS TO THE **EXISTING RESIDENCE &** SWIM SPA

GROUND FLOOR PLAN - SOUTH ELEVATION

SECTION 4.55 ADDITIONAL INFORMATION

MR. & MRS. BERMAN

259 MILITARY ROAD, **DOVER HEIGHTS NSW 2030** 

4.10.2022 <sup>No:</sup>21\_17 **A3** 07 - 03 1:100 JMH JMH

JMH Living Design Industry Member of: Company: ABN 41 280 852 John Hatch - Principa Office



**PLANS** 

DA-473/2021 FRONT WALL LOCATION CONDITIONED DA GENERAL CONDTION 2C BELOW:

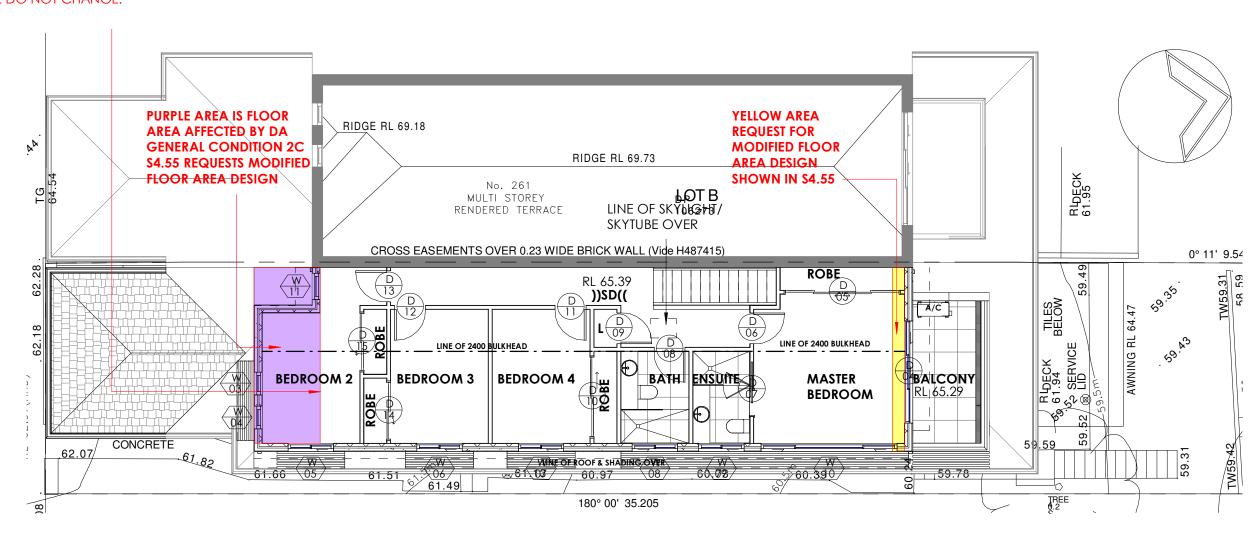
(C) THE SOUTHERN FRONT WALL OF THE PROPOSED ADDITIONAL STOREY (1ST FLOOR LEVEL) IS TO BE SET BACK TO ALIGN WITH THE SOUTHERN WALL OF THE FIRST FLOOR OF NUMBER 261 MILITARY RD. INTERNAL REARRANGEMENT OF 1ST FLOOR LEVEL CAN BE UNDERTAKEN AS LONG AS THE WINDOW LOCATIONS AND SIZE DO NOT CHANGE.

RECEIVED
Waverley Council

Application No: DA-473/2021/A

**Date Received: 05/10/2022** 

# AMENDED PLANS



# 1

# 05 FIRST FLOOR LEVEL AS PER CONDITION 2. GENERAL MODIFICATIONS C

1:100

AMENDMENTS

PROPOSED ALTERATIONS AND ADDITIONS TO THE EXISTING RESIDENCE & SWIM SPA FIRST FLOOR LEVEL PER DA GENERAL CONDTION 2C

SECTION 4.55 ADDITIONAL INFORMATION

MR. & MRS. BERMAN

259 MILITARY ROAD,
DOVER HEIGHTS NSW 2030

Date: 4.10.2022

Drawing No: 21\_17

Sheet No: 07 - 04

Scale: 1:100

Drawn: JMH

Amend: Amend

The whole works to be in accordance with the National Construction Code of Australia, all relevant Australian Standards and all other governing authorities concerne All dimensions to be in millimetres unless otherwise state.

All dimensions to be in millimetres unless otherwise stated.

Use written dimensions in preference to scaled dimensions.

The builder to check all dimensions on site prior to the commence present of write.

No responsibility will be accepted by JMH Living Design fr oulder's details, methods, setout or design contradiction: nor council variations and conditions.

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JMH Living Design
ABN 41 280 852
John Hatch - Principal
Mobile: 0447 981 734
E-mail: ibhn Birnhivingdesian.com au
Webry www. miblivingdesian.com au

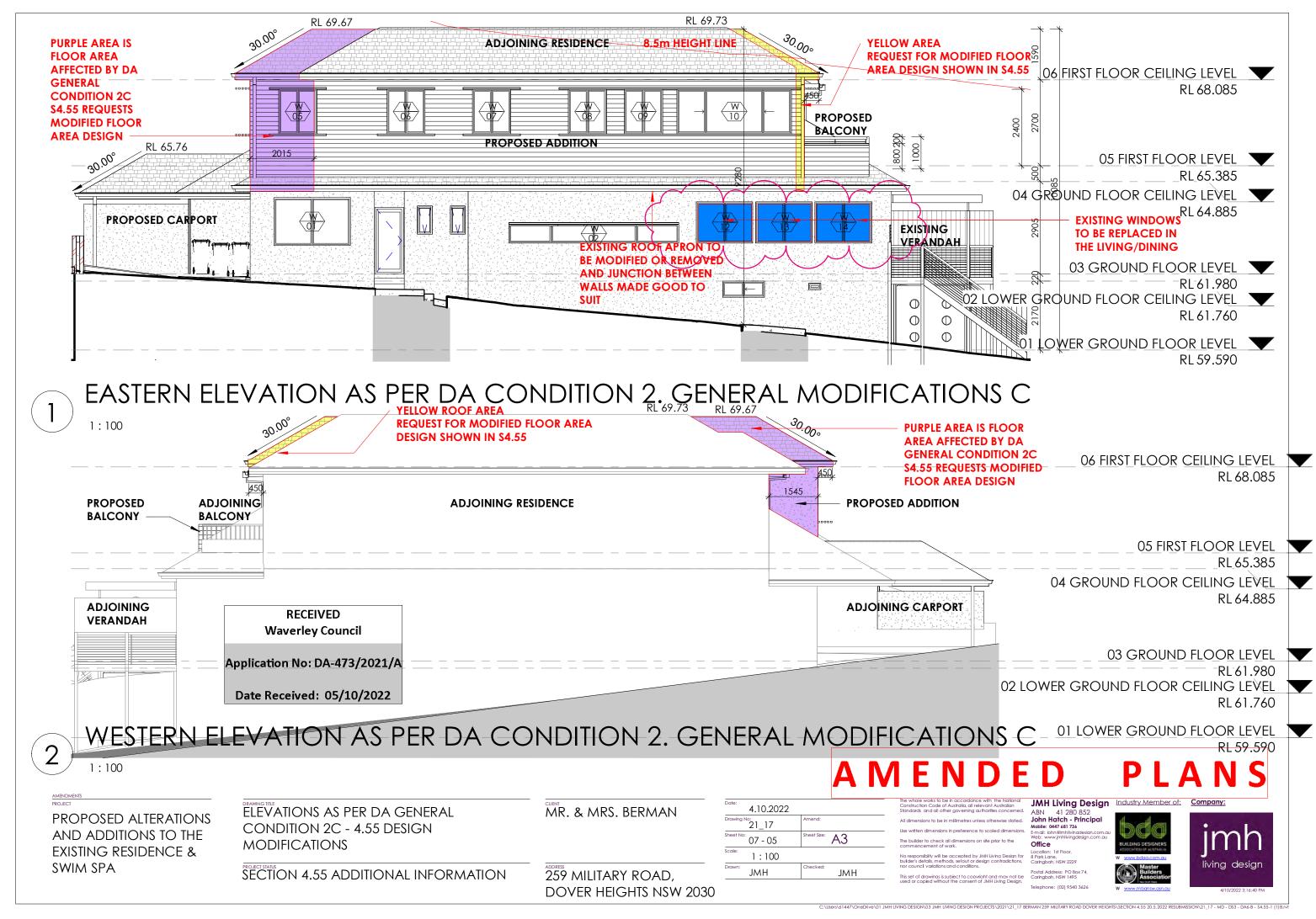
BUILDING DESIGNE
ASSOCIATION OF AUTOREA

W www.bdaa.com.

jmh living design

C:\Users\61447\OneDrive\01 JMH LIVING DESIGN\03 JMH LIVING DESIGN\03 JMH LIVING DESIGN\07 DESIGN PROJECTS\2021\21\_17 BERMAN 259 MILITARY ROAD DOVER HEIGHTS\5ECTION 4.55 20.5;2022 RESUBMSSION\21\_17 - MD - DS3 - DA648 - S4.55-1 [1]B.r/f

Office







# Report to the Waverley Local Planning Panel

Application number	DA-220/2022	
Site address	251 Old South Head Road, Bondi	
Proposal	Alterations and additions to a Residential Flat Building (RFB) including internal reconfiguration, balcony additions and construction of an additional upper level for the exclusive use of unit 2.	
Date of lodgement	6 June 2022	
Owner	Mr W H Nanni and Ms M E Nanni and Mr H Nanni	
Applicant	O2 Architecture Pty Ltd	
Submissions	Nil	
Cost of works	\$477,400	
Principal Issues	<ul> <li>Breach to Floor Space Ratio (FSR) does not preserve the environmental amenity of neighbouring properties (shadow impacts); and</li> <li>Impact to Inter-War RFB and streetscape.</li> </ul>	
Recommendation	That the application be <b>REFUSED</b> for the reasons contained in the report.	

# SITE MAP



(Source: Nearmap, 2022)

#### 1. PREAMBLE

### 1.1. Executive Summary

The Development Application (DA) seeks consent for alterations and additions to a RFB including internal reconfiguration, balcony extensions to the rear and construction of an additional upper level for the exclusive use of unit 2 at the site known as 251 Old South Head Road, Bondi.

The principal issues arising from the assessment of the application are as follows:

- Breach to Floor Space Ratio (FSR) does not preserve the environmental amenity of neighbouring properties (shadow impacts); and
- Impact to Inter-War RFB and streetscape.

The assessment finds these issues unacceptable for the reasons outlined in this report.

No submissions were received during the assessment of this DA.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for refusal.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 11 March 2021 during the assessment of DA-8/2021.

The site is identified as Lot 4 in DP 11862, known as 251 Old South Head Road, Bondi. It is located on the southern side of Old South Head Road.

The site is irregular in shape with a northern frontage to Old South Head Road of 14.69, a southern rear boundary of 7.645m, an eastern side boundary of 37.12m and a western side boundary of 36.12m. The site has an area of 397.2m<sup>2</sup> and falls from the south (rear) towards the north (front) by approximately 4.2m.

The site is occupied by a part-two, part-three storey RFB with vehicular access provided from Old South Head Road, to a garage located below the ground floor.

The subject site is adjoined by three storey RFB's on either side. The locality is characterised by a variety of residential development, including low density dwellings and RFB's.



Figure 1: Subject site frontage, from Old South Head Road

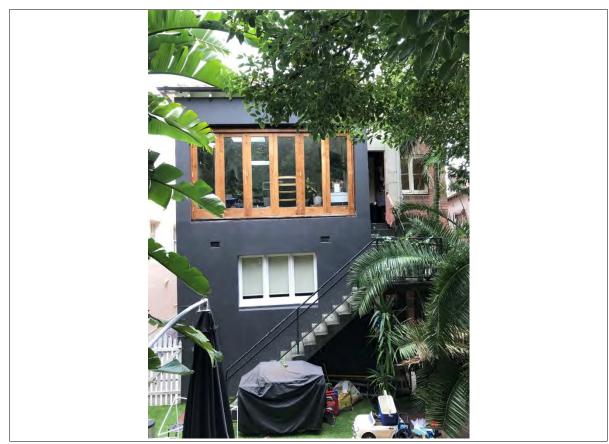


Figure 2: RFB viewed from the rear of the property.

### 1.3. Relevant Development History

A search of Council records indicate the following relevant background:

• DA-8/2021 was lodged with Council on 11 January 2021 for alterations and additions to an existing RFB including an additional level and new balconies.

The Development Application (DA) was deferred on 31 March 2021 for the following reasons:

- 1. The development was to be amended to comply with height through a more skillfull design.
- 2. Council would only consider a breach to the FSR development standard if it could be adequately demonstrated that such breach would "preserve the environmental amenity of neighbouring properties and the locality", that is, not result in additional environmental impacts such as shadowing, view loss or visual privacy.
- 3. The additional shadowing impacts from the non-compliant second floor addition were of an unacceptable scale.
  - The shadow diagrams showed unacceptable shadow impacts, resulting from non-complaint height and FSR, strictly contravening Clause 4.3 (a) and Clause 4.4 (d) of the WLEP as the development did not 'preserve' the environmental amenity in terms of solar access.
  - The development was to show that the second floor addition did not create additional shadowing impacts, as it would not meet the objective of FSR and height (as outlined above), especially for a non-compliant development.
- 4. More detailed shadow diagrams were requested:
  - a. Hourly plan form shadow diagrams at winter solstice between 9am 3pm.
  - b. All lot boundaries to be shown.
  - c. Elevational shadow diagrams for 253 Old South Head Road.
  - d. Solar access plan for Apartment Design Guide (ADG).
- 5. Any addition was to be respective of the buildings original character, appear only secondary in nature and be setback to be disguised from the public domain. The second floor addition was to be setback further from the existing front building line to be hidden from the streetscape, this would assist in removing the non-compliant height, reduce the FSR and assist in reduced shadowing whilst respecting the RFB.
- 6. The balconies to the rear of the RFB were to be appropriately screened on either side to avoid overlooking into private open space or adjoining windows, up to a height of 1.8m from finished floor level to avoid overlooking. Timber screening would be a preferred option, relating to the timber framed windows.
- 7. The external stairs to the rear of the RFB were not supported as they created visual privacy impacts.
- 8. If the living areas were to remain on the second floor, then a consistent 2.7m floor to ceiling height was be provided to meet objective 4C-1 of the ADG.
- 9. To further assist in the reduction of amenity issues, the wall height of the development was to be reduced to a compliant size. Council supported the parapet, as it aided in providing a respectable transition between the original building and the contemporary addition, although it needed to

be lowered. Confirmation of matching brick types is necessary to ensure the new addition complements existing materials.

- 10. In accordance with Part 3 of the Affordable Rental Housing (ARH) State Environmental Planning Policy (SEPP), it was needed to be determined if there will be a loss in ARH.
- 11. Confirmation was sought if the existing garages will remain as garages. Clarification was also sought why bi-fold doors are used over a traditional garage door;
- 12. A concept landscape calculation plan was requested; and
- 13. Window opening details were to be shown on the plans, to assist in understanding if cross-ventilation was achieved.

The applicant was provided 14days to respond to the above matters. Due to the time requested by the applicant to address the deferral letter being beyond Council's standard allowance, it was recommended the applicant withdraw the application and resubmit at a later stage, once all the information was addressed.

On 30 April 2021, the application was formally withdrawn.

# 1.4. Proposal

The DA seeks consent for alterations and additions to a RFB including internal reconfiguration, balcony extensions to the rear and construction of an additional upper level for the exclusive use of unit 2. Specifically, the following works are proposed:

#### **Lower Ground**

Demolition of bi-fold door to construct a garage door.

#### **Ground Floor**

- Demolish and re-construct rear external stairs.
- Construction of a lift at rear to access new upper level addition (unit 2 only).
- Removal of tree to the rear.

#### Unit 3

- o Demolition of internal walls and doors.
- Demolition of external rear door.
- o Demolition to a portion of the rear external wall for a new door.
- Construction of a new internal wall.
- Construction of new rear deck.

## • Unit 4

- Demolition of internal walls and doors.
- Demolition of external rear door.
- o Demolition of rear window.
- o Convert existing living room to a bedroom via the construction of internal walls.
- o Demolish the existing bedroom to create an open planned living area.
- New balcony to the rear.

#### First Floor

• New lift at rear

#### Unit 1

- o Demolition to a portion of the rear external wall for a new door.
- o Demolition of external rear door.
- Proposed rear balcony with external stair access to the ground floor.

#### Unit 2

- Demolition of external rear door.
- o Demolition of internal walls and existing kitchen.
- Convert existing play room to a bedroom via the construction of internal walls.
- o Proposed rear balcony with external stair access to the ground floor.
- Construction of internal stairs to proposed second floor addition.

#### Second Floor (new addition)

#### Unit 2

- o Construction of a living, kitchen, dining area.
- o Construction of a bedroom with ensuite.
- o Construction of a terrace.
- New lift at rear to provide access to this level only.

#### 2. ASSESSMENT

The following matters are to be considered in the assessment of this DA under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

# 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State Environmental Planning Policies (SEPPs), and development control plans.

# 2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Transport and Infrastructure) 2021
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP 65 (Design Quality of Residential Apartment Development) 2002
- SEPP (Housing) 2021

A detailed discussion is provided for relevant SEPPs as follows:

#### SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the DA.

The BASIX Certificates lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition would be recommended ensuring the measures detailed in the BASIX Certificates are incorporated into the Construction Certificate drawings and implemented, if the DA was recommended for approval.

#### SEPP (Biodiversity and Conservation) 2021

SEPP (Biodiversity and Conservation) 2021 (the Vegetation SEPP) regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the Biodiversity Conservation Act 2016.

In accordance with Part 3 of the Vegetation SEPP, a permit is required from Council to clear any vegetation in an area identified:

- (i) Any vegetation on Land identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012;
- (ii) Any vegetation on Land identified as 'Biodiversity Habitat Corridor' in WDCP2012; or
- (iii) A tree identified on the Waverley Significant Tree Register; or
- (iv) A tree or vegetation that forms part of a Heritage Item or is within a Heritage Conservation Area;
- (v) Any tree with a height of five metres or greater and trunk width of 300mm or greater at ground level; or
- (vi) Any tree with a canopy spread of five metres or greater and trunk width of 300mm or greater at ground level.

Council's Biodiversity Officer has reviewed the application and advised, the property lies within the identified coastal biodiversity corridor, In accordance with Part B3, Section 3.2.2, Control (a) of the Waverley Development Control Plan 2012 (Waverley DCP 2012):

A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 (of the Waverley DCP 2012).

The landscape plans received submitted with the application are unable to be assessed for compliance with this control as no planting schedule has been supplied.

# SEPP (Transport and Infrastructure) 2021

As the development fronts a classified road (Old South Head Road) Section 2.119 of this SEPP must be considered. However, as the site does not propose a new driveway crossing (maintaining the existing driveway crossing), a full assessment against this SEPP is not required.

## SEPP (Housing) 2021

The DA has been referred to Council's Strategic Planning Department as it relates to the partial demolition of, and alterations and additions to an existing RFB. The existing building subject of this DA has not been approved for strata subdivision, does not contain shop top housing, has not been granted approval under chapter 3 part 5 of this SEPP (or ARH SEPP 2009), and is not owned by, or under the care, control and management of, a social housing provider. Therefore, an assessment against this SEPP is required.

# State Environmental Planning Policy (Housing) 2021 – Chapter 2, Part 3 – Retention of existing affordable rental housing

This Part of the Housing SEPP 2021 allows Council to consider charging the developer a monetary contribution if their Development Application is considered to result in a reduction of bedrooms in low rental dwellings. The monetary contribution is calculated using a formula, varies depending on how many bedrooms of low rental dwellings are being lost, and goes towards a NSW State Government affordable housing program.

An assessment of the proposal against <u>Clause 47 of the SEPP</u> and the <u>Guidelines for the Retention</u> <u>of Existing Affordable Rental Housing</u> will assist to determine whether a contribution is eligible to be charged. If a contribution is to be charged, <u>Clause 48 of the SEPP</u> shows how to calculate the contribution.

### **Low-rental dwellings**

Clause 45 of the SEPP defines a low-rental dwelling as:

"a dwelling that was let at a rental level no greater than the median rental level, as specified in the Rent and Sales Report, during the <u>relevant period</u> in relation to a dwelling of the same type, and with the same number of bedrooms, and in the same local government area. <u>Relevant period</u> means the period commencing 5 years before the day on which the development application involving the building is lodged and ending on that day."

Table 1 compares the median weekly rent for 3-bedroom dwellings in the Waverley LGA (data from the <u>Rent and Sales Report</u>) with the provided rental records for each dwelling within the existing residential flat building at 251 Old South Head Road, Bondi. Anything bolded and coloured green indicates a low-rental dwelling (i.e. it is rented at the same or less than the median price.)

**Table 1:** Median rent in LGA and historical rent for development site comparison – 3 bedrooms

Median rent	Units*	
for 3 beds	1	3
22Q1:1023	1	1560
21Q4:1000	1	1560
21Q3:1025	1050	1560
21Q2:1050	1050	1050
21Q1:1050	1050	1050

**Table 1:** Median rent in LGA and historical rent for development site comparison – 2 bedrooms

Median rent	Units*	
for 2beds	2	4
22Q1:1023	1	-
21Q4:1000	-	-

21Q3:1025	-	1
21Q2:1050	-	•
21Q1:1050	-	-

Tables 1 shows that Units 1 and 3 were leased at prices at or below the median rental price at least once in the 5 years prior to the lodgement of the DA, and therefore can be considered as low-rental dwellings. The information on two-bedroom units 2 and 4 were not provided by the applicant and they will be considered as low rental dwellings. Therefore, a contribution for the loss of affordable housing can be charged for the bedrooms in those low-rental units and further consideration of this Part of the Housing SEPP 2021 is required for those units.

#### Clause 47 Reduction of availability of affordable housing

# (a) whether there is likely to be a reduction in affordable housing on the land to which the application relates

The existing building at 251 Old South Head Road is considered to contain affordable housing, specifically units 1 and 3 which are confirmed to be low-rental dwellings, and units 2 and 4 which cannot be ruled out as not being low-rental dwellings

Yes, there will be a likely reduction of affordable housing by the proposal, as the proposed development will result in alterations and additions to all 4 existing low-rental units which includes the addition of private open space for each one (balconies/decking) and internal upgrades that are likely to improve the finishes and furnishings, and subsequently increase the rental price of each one.

# (b) whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation

As outlined in Clause 47(3) of the Housing SEPP, sufficient comparable accommodation is deemed to be **not available** to mitigate the impact of the proposal, if for the 3 months occurring immediately before the development application is lodged, the average vacancy rate in private rental accommodation for Sydney, as published monthly by the Real Estate Institute of New South Wales, is **less than 3%**.

The Inner Sydney (includes Waverley, Woollahra, Randwick etc.) rental vacancy rate as of June 2022 was 2.9%. Given this rate is less than 3% there is insufficient comparable accommodation to satisfy the demand for affordable rental housing.

# (c) whether the development is likely to cause adverse social and economic effects on the general community

The development is likely to cause adverse social and economic effects on the general community as one or more of the following impacts is expected to occur:

- less housing choice for existing and potential residents contributes to a loss of household diversity (socio-economic, structure, age and ethnicity) and gentrification, increasing the social isolation of remaining low-income residents;
- increased competition for affordable rental housing can lead to an increase in rents, making housing less affordable for the community generally;

- the displacement of existing residents who can no longer afford to live in the area causes break down of established social networks, resulting in social dislocation both for displaced residents and the community they are displaced from;
- residents moving out of the community can lead to a fall in demand for services and facilities, which may mean that those services are no longer economically viable and cease to be available to all residents of the community;
- increased demand on publicly-funded social housing and rental assistance;
- reduced level of opportunity and higher financial burden on low income households forced to move out of areas with good access to services, transport and employment.

This impact can be somewhat mitigated as the contributions to be levied from the development will be put towards affordable rental housing.

(d) whether adequate arrangements have been made to assist the residents (if any) of the building are likely to be displaced to find alternative comparable accommodation

The applicant has not discussed any arrangements.

(e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area

The proposed development will contribute to the incremental, long term decline of affordable housing within the LGA as the development proposes to renovate 4 units which are unconfirmed to be rented at a rate higher than the rate identified as being affordable rental housing. This loss is intended to be offset by the contribution fees the developer is required to pay.

(f) the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and compliance of the building with the fire safety requirements

At discretion of assessing officer.

(g) Whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development.

The development proposes to partially demolish and undertake alterations and additions to an existing residential flat building, 6 bedrooms of which are currently rented at a rate considered to be affordable rental housing, and 4 bedrooms of which may be rented at a rate considered to be affordable rental housing.

As the proposal will contribute to the loss of affordable rental housing within Waverley, it is considered that the extent of the proposed loss can be mitigated through the provision of a monetary contribution of \$550,125.00 formulated in accordance with Clause 48 of the Housing SEPP. This contribution will be formalised by way of condition of consent in accordance with section 7.11 of the Environmental Planning and Assessment Act 1979.

There is opportunity for the applicant to provide the contribution in the form of a Voluntary Planning Agreement (VPA) monetary contribution for the same amount instead so that the funds go towards affordable housing in the Waverley LGA.

As the proposal will contribute to the loss of affordable rental housing within Waverley, it is considered that the extent of the proposed loss can be mitigated through the provision of a monetary contribution of \$550,125.00 formulated in accordance with Clause 48 of the Housing SEPP.

# (h) In the case of a boarding house, the financial viability of the continued use of the boarding house

Not applicable to this application.

#### Clause 48 Contributions for affordable housing

Clause 48 of the <u>Housing SEPP</u> sets out the formula to calculate the contributions payable based on the total loss of low rental bedrooms, multiplied by the replacement cost (average value of the first quartile of sales and strata properties in the local government area as specified by the 4 most recent editions of the Rent and Sales Report), and then multiplied again by 0.05.

The average replacement (R) value of a dwelling within the Waverley LGA is \$1,100,250 (as at July 2022).

In this instance the total loss of low rental dwelling bedrooms (L) is identified as 10, and 5% of the replacement cost is a total of \$550,125.00.

Based on the calculations listed in clause 48(3) and outlined below, the total contribution amount equates to \$550,125.00.

**\$550,125.00** = 10 x \$1,100,250 x 0.05

 $C = L \times R \times 0.05$ 

In the event the application is approved, an appropriate condition would be imposed.

### SEPP (Design Quality of Residential Apartment Design)

The application was referred to the Waverley Design Advisory Excellence Panel (DEAP) on 20 July 2022. The DEAP's comment of the proposed development against the nine design quality principles under Schedule 1 of SEPP 65 and a planning response to each comment are set out in **Table 3** of this report.

Table 3: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Panel's Comment	Planning Comment
1. Context and	The proposal responds to this principle	The proposed addition does not retain
Neighbourhood	in the following ways:	the architectural integrity of this RFB,
	• The Panel noted that a previous DA	through the removal of the original
	for the site was not accepted due to	pitched roof and replacement with a
	the top floor configuration and	contemporary addition. The proposed
	being over the height limit.	addition will be easily identifiable from
	• While a CGI view of the revised	Old South Head Road and would break
	scheme appears to be a suitable	up the consistent pair of the three

Principle	Panel's Comment	Planning Comment
	contemporary form that contrasts with the Inter-war period brick	similar RFB's to either side of the subject site (as identified at 249 and
	character, provision of other views from either side of the site would assist in ensuring the solution is satisfactory.	253 Old South Head Road), which share a similar bulk, scale and Inter War style and age.
2. Built form and Scale	The proposal responds to this principle in the following ways:  There is a well-prepared floor plan that appears to provide necessary setbacks to minimize shadow impacts on the adjacent properties either side, while providing the additional amenity sought by the current residents.  The warped roof profile is indicated as metal cladding and it was implied by the architect that this would be zinc, so this needs to be clearly nominated and an indication provided of the construction detail.  The rear stair access and balconies are indicated in timber and the Applicant needs to ensure that BCA compliance can be achieved, and that privacy to adjacent units will not be compromised.  Upgrade to the existing garage doors on the north elevation should include clear details of operation and colours.  Access doors are indicated on the East Elevation that are assumed to be for access to sub-floor storage and if so this should be further detailed in order to understand if there is potential for fire hazards.	The scale of the development is excessive (as indicated by the breach to FSR), impacting the currently intact Inter-War building as well as creating unreasonable shadowing impacts.
3. Density	The proposal does achieve this principle in the following ways:  • The reduced addition results in improved layouts and an interfamily living proposal. This must of course be consistent with the impacts noted in the presentation.	No comment.
4. Sustainability	The proposal should respond to this principle in the following ways:  There is potential for inclusion of p/v solar panels on the roof that should be investigated, and it is	No comment.

Duinciale	Paralla Commant	Blanning Commant
Principle	Panel's Comment	Planning Comment
	recommended that ceiling fans be included in all living rooms and bedrooms as an alternative to a/c use.	
5. Landscape	The proposal should respond to this principle in the following ways:  It is understood that the rear communal space terraces and landscaping will not be changed, but the Panel recommends that scope to enhance the outlook and amenity with improved planting should be considered.  Rooftop planting must be considered to provide access for maintenance or a strategy for planting health	No comment.
6. Amenity	The proposal does/does not achieve this principle in the following ways:  • Location of any a/c condensers should be shown with indication of visual / acoustic screening if required.	The proposed development does not provide a good amenity to neighbouring properties.  The development, which exceeds FSR creates additional shadowing to neighbouring properties and therefore does not comply with objective (d) of FSR within Clause 4.4 of the Waverley Local Environmental Plan 2012 (Waverley LEP 2012) as the development does not <i>preserve</i> the environmental amenity of neighbouring properties.
7. Safety	The proposal should respond to this principle in the following ways:  • Check that fire stair construction is acceptable in timber, or consider alternative.	No comment.
8. Housing Diversity and Social Interaction	No comment.	No comment.
9. Aesthetics	The proposal should respond to this principle in the following ways:  New brickwork to match existing is shown on the elevations where walls are to be extended, but as it is unlikely an accurate match might be sourced there should be consideration of using bricks from	No comment.

Principle	Panel's Comment	Planning Comment
	<ul> <li>the demolition or less visible rear walls to ensure a suitable mix.</li> <li>Clarify colours and finishes for roof, garage doors and window frames on materials schedule.</li> </ul>	

# Apartment Design Guide

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 4** of this report.

**Table 4: Apartment Design Guide** 

Design Criteria	Compliance	Comment		
3D Communal and public open s	3D Communal and public open space			
• Communal open space has a minimum area equal to 25% of the site	Additional Information Required	It is unclear if the site currently has or proposes communal open space.		
3E Deep soil zones				
• 7% of the site is to be deep soil zone	Yes	The site proposes 9.1% of deep soil.		
3F Visual privacy				
<ul> <li>Min separation distances from buildings to side and rear boundaries:</li> <li>Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> </ul>	Acceptable on merit	Due to the small lot width created from the historical subdivision pattern, it is not possible for the proposal to comply with this setback criteria.		
4A Solar and daylight access	4A Solar and daylight access			
<ul> <li>Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight</li> </ul>	Yes N/A	The second floor addition receives acceptable levels of solar access, with north facing glazing.		

Design Criteria	Compliance	Comment
<ul> <li>between 9am-3pm midwinter</li> <li>A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter.</li> </ul>		As the RFB is existing and maintains many of the original window openings, an assessment against the lower levels was not undertaken.
4B Natural ventilation		
<ul> <li>All habitable rooms are naturally ventilated</li> <li>Number of units with natural cross ventilation is maximised:         <ul> <li>At least 60% of units naturally ventilated</li> </ul> </li> </ul>	Yes N/A	The proposed second floor addition receives adequate natural ventilation  As the RFB is existing and maintains many of the original window openings, an assessment against the lower levels was not undertaken.
4C Ceiling heights	A deliti e e el	The control betall of the control floor addition
<ul> <li>Habitable rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> <li>2 storey units – 2.7m main level (living) &amp; 2.4m upper floor where its area does not exceed 50% of the unit area</li> </ul>	Additional Information Required	The ceiling height of the second floor addition varies from 2.35m to 2.75m, although it does not comply with the recommendation of 2.7m within the ADG (as this would breach the maximum height permitted), it appears to comply with the National Construction Code (NCC) standard of a floor to ceiling heights of at least 2.4m for at least two thirds of the room.  However, for this to be assessed adequately a detailed plan is required.
4D Apartment size and layout		
The following minimum internal areas apply:  • Studio = 35 m <sup>2</sup>	N/A	Units 1, 3 and 4 will not change in size, or increase the number of bedrooms or bathrooms.
<ul> <li>1 Bed = 50 m²</li> <li>2 Bed = 70 m²</li> <li>3 Bed = 90 m²</li> <li>Add 5m² for each additional bathroom (above 1)</li> <li>Add 12m² for each additional bedroom</li> </ul>	Yes	Unit 2 will be increasing from 1 bedroom and 1 bathroom to 3 bedrooms and 2 bathrooms. This unit will have an internal area of 159.9m², complying with the minimum required area of 95m².
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	Yes	Sufficient amount of windows are provided to the second floor addition.
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Yes	The room depth of the second floor addition do not exceed 8m from a window.

Design Criteria	Compliance	Comment
Master bedrooms have a minimum area of $10m^2$ and other bedrooms $9m^2$ (excluding wardrobe space)	Yes	The proposed bedrooms to units 2 and 4 exceed $10\text{m}^2$ .
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)  Living rooms or combined living/dining rooms have a	Acceptable on merit	Given the narrow width of the units the proposed bedrooms do not have widths that exceed 3m, however the lengths of these bedrooms exceed 3m.
minimum width of 4m for 2 and 3 bedroom apartments	Acceptable on merit	The secondary addition provides a width of 4m. However, the existing units cannot achieve this due to the narrow width of these existing units.
4E Private open space and balcon	nies	
All apartments provide primary balcony as follows:  • 2-bed - 10m² & 2m depth  • 3+bed - 12m² & 2.4m depth  • Ground level, min 15m² & 3m depth	Acceptable on merit	As this is an Inter-war building it is not common to have balconies.  The DA will upgrade the existing units on ground and first floor through rear decks and balconies.  • Unit 1: 2.95m and 6.8m²  • Unit 2 (Rear): 2.5m or 9.7m²  • Unit 2 (terrace): 4.4m or 35.5m²  • Unit 3: 2m and 3.7m²  • Unit 4: 0.85m and 2.1m²  Although these balconies (excludes second floor terrace) do not meet the minimum requirements as set out by the ADG, they are considered an improvement from the current situation.
4F Common circulation and space	es	
Max of 8 units accessed off a circulation core on a single level	N/A	No change to common circulation
4G Storage		
In addition to kitchens, bathrooms and bedrooms, the following is provided:  • 1-bed – 6m³  • 2-bed – 8m³  • 3+bed – 10m³	Additional Information Required	The location of storage for each unit has not been addressed.

2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

# 2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 5: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	No	The proposal does not meet the aims of the Waverley LEP 2012, as it fails to identify and conserve the built heritage of Waverley, through the impact the development will have on the currently intact Inter-war RFB.
Part 2 Permitted or prohibited de	velopment	
Land Use Table  Medium Density Residential  'R3' Zone	Yes	The proposal is defined as a RFB, which is permitted with consent in the R3 zone.
Part 4 Principal development star	ndards	
4.3 Height of buildings • 12.5m	Yes	The development has a height of 12.5m.
<ul> <li>4.4 Floor Space Ratio (FSR)</li> <li>Lot Size: 397.2m²</li> <li>MAX FSR: 0.9:1</li> <li>MAX GFA: 357.48m²</li> </ul>	No	Gross Floor Area (GFA) Calculation: Ground Floor: 164.9m² First Floor: 165.9m² Second Floor: 77.4m²  GFA: 408.2m² FSR: 1.03:1  This breaches the development standard by 50.72m² or 14.2%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

# Clause 4.6 Exceptions to Development Standards - FSR

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.9:1. The existing FSR for the site is 0.82:1 ( $326m^2$ ) according to the applicant's calculations. The proposed development has a FSR of 1.03:1, exceeding the standard by  $50.72m^2$  equating to a 14.2% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) It is acknowledged that the design could be made to comply however such compliance will result in a loss of usable area within this addition and hence good usability for residents. Further the height of this design is compliant with maximum allowable height under Clause 4.3 Height of Buildings under the WLEP 2012.
  - (ii) The exceedance of the Floor space ratio should not have any great impact upon the iconic views.
  - (iii) It also has been demonstrated on the shadow diagrams provided (refer to DA13 to DA22) that the non-compliance with the floor space ratio will have no detrimental additional shadowing impact as all additional overshadowing will not decrease sunlight available to other adjoining developments.
  - (iv) The design also even though not floor space ratio compliant has been demonstrated to be visually acceptable within the Old South Head Road streetscape as well as will be respective of the buildings original character, appear only secondary in nature and be setback to be disguised from the public domain in relation to the Inter War Buildings requirements of B17 of the DCP.
  - (v) Whilst, in relation to the zone objectives, this proposal will satisfy the R3 Medium Density Residential zone objectives.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) That the proposal meets the objectives of FSR in the following way:
    - a. Objective (b) to provide an appropriate correlation between maximum building heights and density controls,
      - As shown in the provided photographs in the Statement, this proposal will provide an appropriate correlation of height and density between the proposed height and density of this  $2_{nd}$  floor addition and the surrounding development within close proximity to the site along along both Old South Head Road and with the Penkivil Street precinct.

- b. Objective (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality, The photographs provided in the Statement show the surrounding development of consists of 3, 4 and 5 storey RFBs and RFBS of even greater stories in Penkivil Street. When comparison is made of the proposal that will involve the construction of a 2nd floor addition within the existing RFB built form. It is considered that the resulting built form will be compatible in bulk, scale and height, reflective of the existing and future building character of the surrounding locality.
- c. Objective (d) to establish limitations on the overall scale of development to preserve
  the environmental amenity of neighbouring properties and the locality.

  It is considered that the above response provided in (c) above provides the necessary
  information to demonstrate compliance with this objective's requirement.

# Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

#### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. This required one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446 to be addressed:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it

applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicants Clause 4.6 variation has incorrectly addressed the objectives of FSR (justification (a) above) within clause 4.6(3)(b) of the Waverley LEP 2012 and not under clause 4.6(3)(a) of the Waverley LEP 2012. Regardless of this, the justification is brief and does not go into the required detail, especially on objective (d) of clause 4.4 of the Waverley LEP 2012, considering it does create additional shadowing impacts to neighbouring properties.

### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant's justification is too brief and does not delve into the environmental planning grounds of the development in terms of view loss, visual privacy or overshadowing.

#### Is the development in the public interest?

The proposed development will not be in the public interest because it is not consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

### The objectives of the FSR development standard are as follows:

Objective (b) to provide an appropriate correlation between maximum building heights and density controls,

The proposed second floor addition does not provide an appropriate correlation between maximum building heights and density controls. The development further increases the breach to FSR, creating a poor correlation between maximum height and density, that is not desired. The existing intact inter-war RFB sits comfortably between two other RFB's of similar bulk, scale and age (249 and 253 Old South Head Road). This proposed addition detracts from this consistent correlation of building height and density.

Objective (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,

The proposed development is not compatible with the bulk and scale of the desired future character of the locality. The proposed addition does not retain the architectural integrity of this RFB, through the removal of the original pitched roof and replacement with a contemporary addition. The proposed addition will be easily identifiable from Old South Head Road and would break up the consistent pair of the three similar RFB's to either side of the subject site (as identified at 249 and 253 Old South Head Road), which share a similar bulk, scale and age.

Council is of the opinion that these buildings have met their maximum development capacity (as indicated by the breach to FSR) and the retention of these inter-war buildings are essential to preserving the built heritage that is situated through Waverley, as is reiterated in Clause 1.2, Objective (g) of the Waverley LEP 2012.

Objective (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

The proposed second storey addition that breaches FSR does not preserve the environmental amenity of neighbouring properties. This can be identified in the submitted shadow diagrams, whereby the proposal creates additional shadowing to the open space of 249 and 253 Old South Head Road, 146 Francis Street and the kitchen window of 3/249 Old South Head Road.



Figure 3. Shadowing impacts created from the works at 9am, June 21. (Source: O2 Architecture, 2022)



Figure 4. Shadowing impacts created from the works at 10am, June 21. (Source: O2 Architecture, 2022)



**Figure 5.** Shadowing impacts created from the works at 12noon, June 21. (Source: O2 Architecture, 2022)



Figure 6. Shadowing impacts created from the works at 1pm, June 21. (Source: O2 Architecture, 2022)

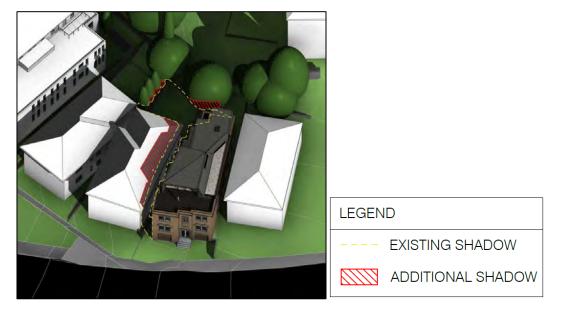


Figure 7. Shadowing impacts created from the works at 2pm, June 21. (Source: O2 Architecture, 2022)



Figure 8. Shadowing impacts created from the works at 3pm, June 21. (Source: O2 Architecture, 2022)

From reviewing the above shadow diagrams it can be concluded that the proposed development fails to meet objective (d) within Clause 4.4 of the Waverley LEP 2012, as the development does not preserve the environmental amenity of neighbouring properties in terms of solar access. Additional shadows are cast from the proposal, compared to a compliant form, considered unacceptable.

#### The objectives of the R3 zone are as follows:

To provide for the housing needs of the community within a medium density residential environment.

Whilst the proposal provides housing needs for the community. The second storey addition is not considered appropriate in the medium density residential environment as it creates unreasonable shadowing impacts to neighbouring residential properties.

#### Conclusion

For the reasons provided above the requested variation to the FSR is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of FSR and the R3 zone.

# 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 6: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Additional Information Required.	Council's Waste Officer reviewed the application.  The applicant has underestimated the number of bins required to service a development of this size. Based on the waste generation rates outlined in the Waverley DCP 2012 – Annexure B1-2, the minimum bin numbers required for a residential building with 3 x 3-bedroom units and 1 x 2-bedroom units is:  2 x 240L Mobile Garbage Bins (MGBs) for general waste (collected weekly)  2 x 240L MGBs for paper and cardboard recycling (collected fortnightly)  2 x 240L MGBs for garden organics waste should this type of waste be generated at the property (collected fortnightly)  1 x 240L MGB for garden organics waste should this type of waste be generated at the property (collected fortnightly)  This number of bins should also be reflected in the Architectural Plans.  Further clarification in Sections 3 and 4 of the Site Waste Recycling Management Plan (SWRMP) is also required on the following points:  How the bins are being transported from the storage area to the kerbside collection point. Typically, applicants also indicate the transport route on the Architectural Plans to demonstrate that the path is clear.  The applicant needs to demonstrate how the bins will be cleaned in a manner that is not going to impact the environment. Specifically, is there an authorised connection to the sewer to wash bins and waste and recycling storage area.  The applicant has stated that there is no fence for the storage area. The applicant needs to demonstrate how the storage area is set up to prevent public accessibility, as is outlined in 1.4.1.2 (e) (i) and (ii) of the Waverley DCP 2012.  What is the process to ensure that bins are not left in the public domain for extended periods. As a residential premises, kerbside collection is the only option for this development, therefore the "N/A" response is not sufficient.

Development Control	Compliance	Comment
		The applicant must ensure that all bulky household items are stored within the development. It is recommended that a designated area is allocated for this purpose.  The applicant should also provide a SWRMP – Part
		2 Construction and Demolition.
Ecologically Sustainable     Development	Yes	The submitted BASIX Certificate is sufficient.
3. Landscaping and Biodiversity	Additional Information Required.	Council's Biodiversity Officer reviewed the application.  The property lies within the identified coastal biodiversity corridor, therefore under the Waverley DCP 2012, Part B3, Section 3.2.2, Control (a). A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 (of the Waverley DCP 2012).  The submitted landscape plans are unable to be assessed for compliance with this control as no planting schedule has been supplied.
5. Vegetation Preservation	Yes	Councils Tree Officer supports the application.
6. Stormwater	Yes	Satisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
8. Transport		
8.1 Streetscape	Yes	The existing garages will be maintained.
8.2 On-site parking	-	The subject site is located within parking zone 2.
8.2.1 Vehicle access	N/A	The existing dual vehicle crossover is being retained.
8.2.2 Parking Rates  Residential  Max vehicles: 5  Min vehicles: 0	Yes	Two residential parking spaces are proposed within the garages. Parking on the existing driveway is not supported as the length of the driveway does not meet the minimum require parking length of 5.4m.
<u>Visitor</u> ● Required: 0	No	The proposed visitor parking space is not supported as it does not meet the minimum requirement of 5 units per 1 visitor space.
12. Design Excellence	No	The proposed addition does not retain the architectural integrity of this RFB, through the

Development Control	Compliance	Comment
		removal of the original pitched roof with the replacement with a contemporary addition. The proposed addition will be easily identifiable from Old South Head Road and would break up the consist pair of the three similar RFB's to either side of the subject site (as identified at 249 and 253 Old South Head Road), which share a similar bulk, scale and age. The proposed addition will also create unreasonable shadowing impacts to neighbouring properties, impacting their environmental amenity.  Council's DCP recommends improvements to existing RFBs to be retained within the existing roof form of buildings, rather than opt for an
17. Inter War Buildings	No	entire additional level atop the building.  The site is occupied by an Inter-War RFB set within a group of similar age, form and scale.  The building is of mottled red/brown face brick with deep red terra cotta Marseilles tile tripled fronted hipped roof.  Windows are double hung timber sashes. Inter-War Old English style elements include:  • A Tudor arched recess infilled with chevron pattern brickwork over the main entry;  • Blind arched insets over ground floor windows, again with chevron pattern infill brickwork;  • Decorative panels and leadlight glazing of heraldic motifs to the central stair exterior frontage; and  • Soldier coursed lintels.  Recent alterations at ground floor include glazed doors to original garage entries and glazed entry doors to the main entry.  The building is not in a conservation area and is not listed as a heritage item on local or state registers. The building retains a high standard of original detailing and form and is within a group of RFBs that are of consistent scale, age, form and streetscape contribution. The building forms part of the visual curtilage to Thomas Hogan Reserve to the rear — an Item of local [landscape] Heritage significance.  The proposed addition does not retain the architectural integrity of this inter-war RFB. The

Development Control	Compliance	Comment
		proposed addition will be easily identifiable from
		Old South Head Road and would break up the
		consist pair of three similar RFB's to either side of
		the subject site (as identified at 249 and 253 Old
		South Head Road), impacting the streetscape.

Table 7: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment	
3.2 Height			
<ul> <li>Maximum external wall height:</li> <li>R3: 9.5m</li> </ul>	No	Parts of the development exceed the wall height towards the rear of the addition.	
3.3 Setbacks			
<ul><li>3.3.1 - Street setbacks</li><li>Consistent street setback</li></ul>	No	Given there is a lack of second floor additions evident in the locality, there is no predominant building line to rely on for the assessment at this height, therefore a merit assessment must be undertaken.	
		The merit assessment concludes that the development is set too far forward, resulting in it being easily identifiable from Old South Head Road, detracting from the current consistent pair of similar RFB's (as identified at 249 and 253 Old South Head Road), negatively impacting the streetscape.	
<ul> <li>3.3.2- Side and rear setbacks</li> <li>Minimum side setback:</li> <li>1.5m</li> <li>Minimum rear setback:</li> </ul>	No	The rear portion of the proposed second floor addition is not setback at least 1.5m from the western side boundary.	
6m or predominant rear building line, whichever is the greater setback	Yes	The second floor addition has a rear setback of 9.6m.	
the greater setsusion	No	The rear first floor balconies extend beyond the predominant rear building line.	
3.5 Building design and streets	scape		
<ul> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Removal of original architectural features not supported.</li> </ul>	No	The proposed addition does not retain the architectural integrity of this inter-war RFB. The proposed addition will be easily identifiable from Old South Head Road and would break up the consistent pair of three similar RFB's to either side of the subject site (as identified at 249 and 253 Old South Head Road).	
3.9 Landscaping – REFER TO AD			
3.10 Communal open space – F			
3.11 Private Open Space – REFER TO ADG			
3.12 Vehicular access and parking			

Development Control	Compliance	Comment
	N/A	The existing vehicle cross over and garages are being retained.
3.13 Solar access and overshad	dowing	
<ul> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining</li> </ul>	Additional Information Required	The plan form shadow diagrams are not accurate as the full extent of shadowing from the proposed addition is obscured by the existing trees.
<ul> <li>properties in mid winter.</li> <li>Direct sunlight to north facing windows of habitable rooms on all private open space areas</li> </ul>	No	The 3D shadow diagrams shows that additional shadowing to the communal open space of 249 and 253 Military Road and 146 Francis Street and the kitchen window of 3/249 Old South Head Road.
of adjacent dwellings to less than three hours of sunlight on 21 June.	No	As the proposal breaches FSR it must meet all relevant objectives of the FSR development standard, one of those objectives being:
		to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality
		The proposed development does not achieve this as it creates additional shadowing impacts to neighbouring properties, as elaborated in the Clause 4.6 Variation section of the report.
3.15 Visual privacy and securit	у	
<ul> <li>Privacy be considered in relation to context density, separation use and design.</li> <li>Roof tops are to be non-trafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site.</li> </ul>	No	The lack of privacy screens to all side of rear balconies creates unreasonable visual privacy impacts to neighbouring properties.
3.16 Dwelling size and layout -	REFER TO ADG	
3.17 Ceiling Heights -REFER TO	ADG	
3.18 Storage – REFER TO ADG		
3.19 Acoustic privacy		
<ul> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	Acoustic privacy issues are acceptable.
3.20 Natural Ventilation – REF	ER TO ADG	

# 2.2. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

#### 2.3. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

### 2.4. Any Submissions

The application was notified for 14 days from 22 June – 6 July 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

No submissions were received.

#### 2.5. Public Interest

The proposal is considered to have a detrimental effect on the public interest and is recommended for refusal.

#### 3. REFERRALS

The following internal and external referral comments were sought:

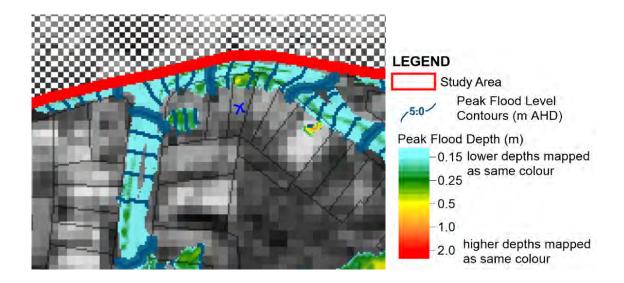
#### 3.1. Tree Management

An internal referral was sought from Council's Tree Officer, who did not object to the proposal.

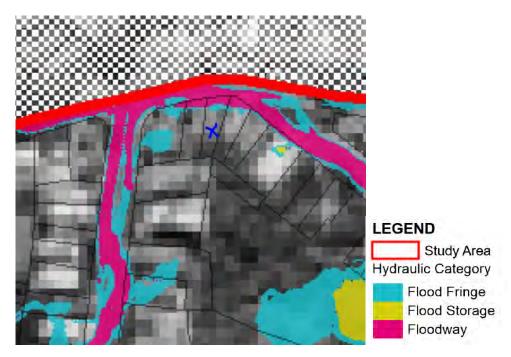
#### 3.2. Stormwater

Conditions were provided which are included in the recommendation. The following additional commentary was also provided (in part):

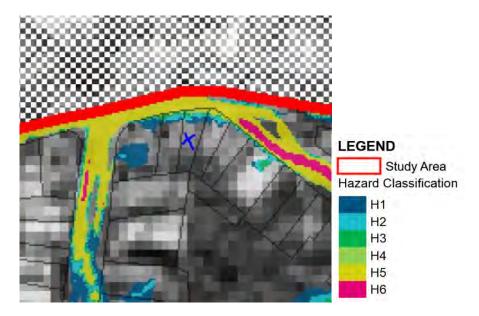
- The property is on land identified as flood affected under the Council endorsed Waverley LGA Flood Study 2021;
- The Waverley LGA Flood Study 2021 identifies the extent and depth of flooding during a 1% Annual Exceedance Probability (AEP) event as seen in the image below



• The Council endorsed Waverley LGA Flood Study 2021 identifies small portioned areas of flood fringe and some areas of floodway during the 1% AEP storm event. This can be seen in the image below:



• The Council endorsed Waverley LGA Flood Study 2021 identifies the hazard rating of floodwaters during a 1% AEP event to be generally in between H1 and H2, it should be noted that Old South Head Road has a rating of H5. This means that during a major storm event, Old South Head Road would be unsafe for all people and all vehicles. In addition, that section of Old South Head Road and Penkivil Street is marked to be an unsafe road for emergency vehicles;



- The property is generally well outside the flood extents. In addition, as there are no proposed works within the flood extents, it is unlikely that the development will change the existing flood behaviour.
- From a stormwater drainage and flooding perspective there are no objections to approval of this application subject to the imposition of conditions.

The Waverley LGA Flood Study has no statutory weight at present and as such, the site is not flood affected under the provisions of the LEP and DCP. In this regard, the above comments cannot be enforced and as such an advisory condition is included on the consent.

In addition, as there are no proposed works within the flood extents, it is unlikely that the development will change the existing flood behaviour.

#### 3.3. Traffic

An internal referral was sought from Council's Traffic Engineer, who recommended conditions of consent.

#### 3.4. Environmental Health

An internal referral was sought from Council's Health Officer, who recommended conditions of consent.

#### 3.5. Waste

An internal referral was sought from Council's Waste Officer, who required additional information.

#### 3.6. Biodiversity

Council's Biodiversity Officer reviewed the application and advised, the property lies within the identified coastal biodiversity corridor, In accordance with Part B3, Section 3.2.2, Control (a) of the Waverley DCP 2012:

A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 (of the Waverley DCP 2012).

The landscape plans submitted with the application are unable to be assessed for compliance with this control as not planting schedule has been supplied.

#### 3.7. Fire Safety

An internal referral was sought from Council's Fire Safety Officer who recommended conditions of consent.

### 3.8. Strategic Planning

An internal referral was sought from Council's Strategic Planning Department who provided an assessment against the SEPP (Housing) 2021. Refer to section 2.1.1 of the report.

#### 3.9. Urban Design

An internal referral was sought from Council's Urban Designer who advised the proposed development application is not accepted at its current form. It is considered that the full demolition of roof structure would negatively impact the streetscape character of the area, as it is a significant feature of the existing building and streetscape. It is suggested that any additions should retain the roof to the front, so as not to adversely impact the streetscape.

#### 3.10. Heritage

An internal referral was sought from Council's Heritage Officer who advised the proposed development application is not accepted at its current form.

#### 3.11. Ausgrid

An external referral was sought from Ausgrid, who supported the application subject to recommended conditions of consent.

#### 4. CONCLUSION

The DA seeks consent for alterations and additions to a RFB including partial demolition and construction of an additional level for the exclusive use of unit 2 at the site known as 251 Old South Head Road, Bondi.

The principal issues arising from the assessment of the application are as follows:

- Breach to Floor Space Ratio (FSR) does not preserve the environmental amenity of neighbouring properties (shadow impacts); and
- Impact to Inter-War RFB and streetscape.

The assessment finds these issues unacceptable for the reasons outlined in this report.

No submissions were received during the assessment of this DA.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for refusal.

#### Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 19/07/2022 and 06/09/2022 and the DBU determined:

(a) The application is not acceptable and should be refused for the reasons in Appendix A.

DBU members:

19/07/2022: M Reid, B McNamara, B Magistrale, T Sneesby 06/09/2022: M Reid, B McNamara, B Magistrale, A Rossi

#### 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:	
Jonnille .		
Joseph Somerville	Angela Rossi	
Senior Development Assessment Planner	Manager, Development Assessment	
	(Reviewed and agreed on behalf of the	
	Development and Building Unit)	
Date: 30/09/22	Date: 13/10/22	

#### Reason for WLPP referral:

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – REASONS FOR REFUSAL

Having regard to section 4.15 (1) of the *Environmental Planning and Assessment Act 1979 (the Act)* the development application (the application) is refused for the following reasons:

- 1. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it contrary to the following provisions of Waverley Local Environmental Plan (WLEP) 2012:
  - a. Clause 4.4 Floor Space Ratio
    - The application exceeds the maximum allowable Floor Space Ratio (FSR) of 0.9:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of Waverley LEP:
      - i. *Details:* The proposal is considered an overdevelopment of the site and the proposed development does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clause 4.4 (1) (d) of WLEP.
- 2. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:
  - a. State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development (SEPP 65) as the application fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
    - i. Principle 1 Context and neighbourhood as the proposed addition does not retain the architectural integrity of this RFB, through the removal of the original pitched roof with the replacement with a contemporary addition. The proposed addition will be easily identifiable from Old South Head Road and would break up the consistent pair of the three similar residential flat buildings to either side of the subject site (as identified at 249 and 253 Old South Head Road), which share a similar bulk, scale and age.
    - ii. *Principle 2 Built form and scale* as the building envelope of the proposed development is excessive and constitutes overdevelopment of the site.
    - iii. Principle 6 Amenity as the proposed development does not afford optimal and adequate residential amenity for neighbouring properties.
  - b. Waverley Local Environmental Plan 2012 (or WLEP) as the application is contrary to the following provisions:
    - i. Clause 1.2 Aims of Plan, specifically the aims expressed under clause 1.2(2)(g) as it fails to identify and conserve the built heritage of Waverley, impacting a currently intact inter-war building.
- 3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan (WDCP) 2012, in respect to the following provisions:
  - a. Part B1 Waste

 The applicant has underestimated the number of bins required to service a development of this size. Based on the waste generation rates outlined in the Waverley DCP 2012 – Annexure B1-2.

#### b. Part B8 Transport

i. Section 8.2.2 *Car Parking Provision Rates,* as the proposed visitor parking space does not meet the requirement of 1 visitor space per 5 residential units.

#### c. Part B12 Design Excellence

i. Section 12.1 Design, specifically objectives (a) and (b) and controls (a), (b) and (e)(i), (iii), (iv), (v) and (vii) as the proposed development does not retain the architectural integrity of the inter-war residential flat building. The proposed addition will be easily identifiable from Old South Head Road and would break up the consist pair of three similar residential flat buildings to either side of the subject site (as identified at 249 and 253 Old South Head Road). This additional bulk and scale will also create unreasonable shadowing impacts to neighbouring properties, impacting their environmental amenity.

#### d. Part B17 Inter War Buildings

i. Objectives (b), (c) and (d) as the proposed addition does not preserve the inter-war building or the character of the streetscape.

#### e. Part C3 Other Residential Development

- ii. Section 3.2 *Height*, specifically control (b) as portions of proposed development breaches the 9.5m wall height.
- iii. Section 3.3.1 *Street Setbacks*, specifically control (b) as this is the first example of a second storey addition, the front setback is assessed on merit. The development is set too far forward, resulting in it being easily identifiable from Old South Head Road, negatively impacting the intact Inter-War residential flat building.
- iv. Section 3.3.2 Side and Rear Setbacks, specifically objectives (a) and (b) and controls (a) and (b) as the proposed rear balconies extend beyond the predominant rear building line created by 249 and 253 Old South Head Road and the bedroom portion to the new second floor addition is not setback at least 1.5m from the western side boundary, creating unreasonable shadowing impacts to 3/249 Old South Head Road.
- v. Section 3.5 Building Design and Streetscape, specifically objective (a), (b), (d), (e) and (f) and controls (a), (b) and (c) as the proposed addition does not retain the architectural integrity of this inter-war residential flat building. The proposed addition will be easily identifiable from Old South Head Road and would break up the consist pair of three similar residential flat buildings to either side of the subject site (as identified at 249 and 253 Old South Head Road).

- vi. Section 3.13 *Solar Access and Overshadowing*, specifically objective (d) as the proposed development will create additional shadowing impacts to neighbouring properties.
- vii. Section 3.1 *Visual Privacy and Security*, specifically control (d)(iii) as a lack of privacy screens to the elevated rear balconies creates unreasonable privacy impacts to neighbouring properties.
- b. The application does not satisfy section 4.15 (1)(a)(iv) of the Act with respect to the *Environmental Planning and Assessment Regulation 2000* (the Regulations), as insufficient documentation has been provided to properly assess the application with respect to Part 1 of Schedule 1 of the Regulations, including but not limited to:
  - a. The landscape plans submitted with the application are unable to be assessed for compliance against Part B3, Section 3.2.2, Control (a) of the WDCP as no planting schedule has been supplied.
  - b. It is unclear if the area behind the residential flat building is communal open space.
  - c. A floor-to-ceiling calculation plan is required to understand if the floor-to-ceiling heights of the second floor addition comply with the minimum requirements set by the National Construction Code.
  - d. The location of storage areas is unclear.
  - e. The submitted Site Waste Recycling Management Plan Part 1 is insufficient.
  - f. The plan form shadow diagrams are not accurate as the full extent of shadowing from the proposed addition is obscured by the existing trees.
- c. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
- d. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development. The standalone redevelopment of the subject site (to the scale and density proposed) could consequently affect orderly future redevelopment of adjoining sites.
- e. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

# Application No: PA-220/2022 NT APPLICATION PROPOSED WEITE PROPOSE & ADDITIONS

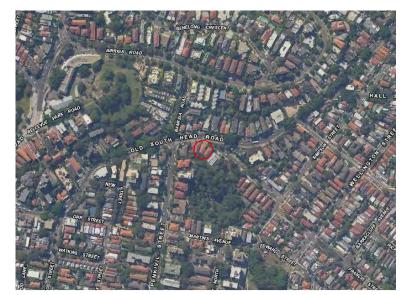
251 OLD SOUTH HEAD ROAD, BONDI, NSW 2026 LOT 4, DP 11862



SCHEDULE OF DRAWINGS

#### ARCHITECTURAL

DA00	COVER & LOCATION PLAN	NTS
DA01	SITE ANALYSIS PLAN	1:200 @ A3
DA02	EXISTING & DEMOLITION PLAN	1:100 @ A3
DA03	GROUND FLOOR PLAN	1:100 @ A3
DA04	FIRST FLOOR PLAN	1:100 @ A3
DA05	SECOND FLOOR PLAN	1:100 @ A3
DA06	ROOF PLAN	1:100 @ A3
DA07	ELEVATIONS	1:100 @ A3
80AC	ELEVATIONS	1:100 @ A3
DA09	SECTION	1:100 @ A3
DA10	SECTION	1:100 @ A3
DA11-DA13	SHADOW PLAN DIAGRAM - JUNE 21 9am, 12pm & 3pm	1:200 @ A3
DA14-DA21	HOURLY 3D SHADOW STUDY	NTS
DA22	PHOTOMONTAGE	NTS
DA23	CONCEPT LANDSCAPE PLAN	1:100 @ A3
DA24	SOLAR ACCESS PLAN	1:100 @ A3



NTS GOOGLE MAPS 2020 LOCATION

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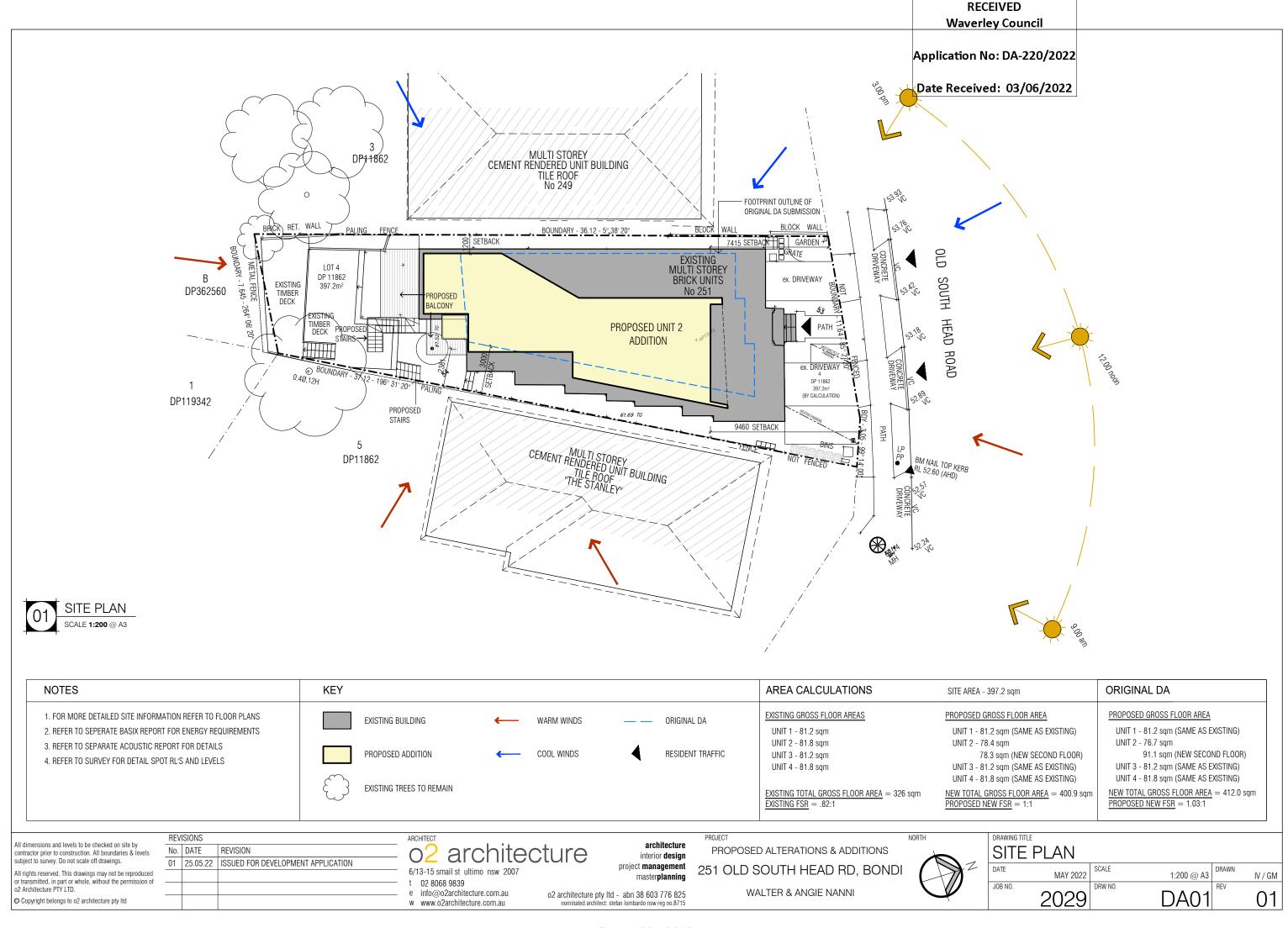
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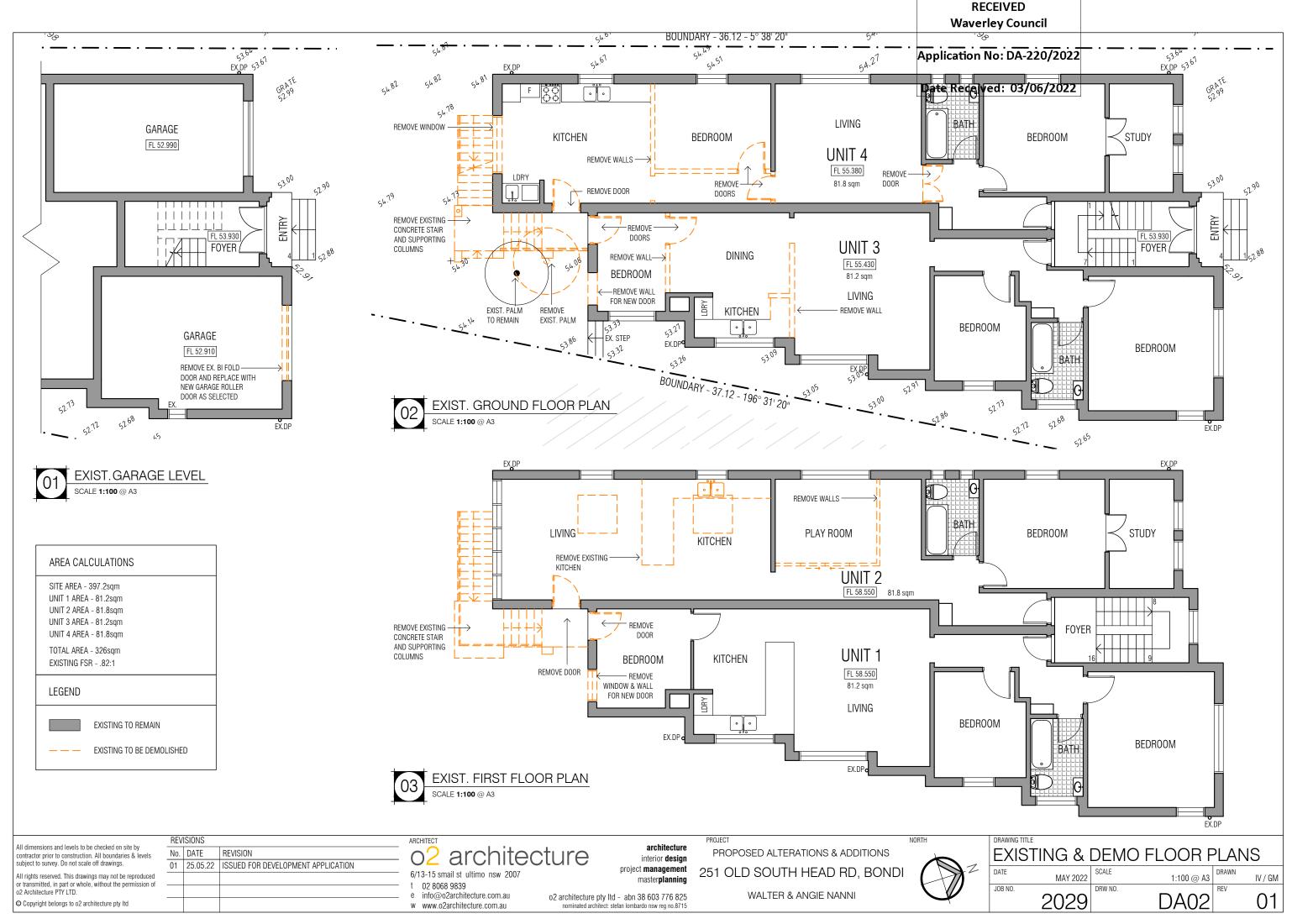
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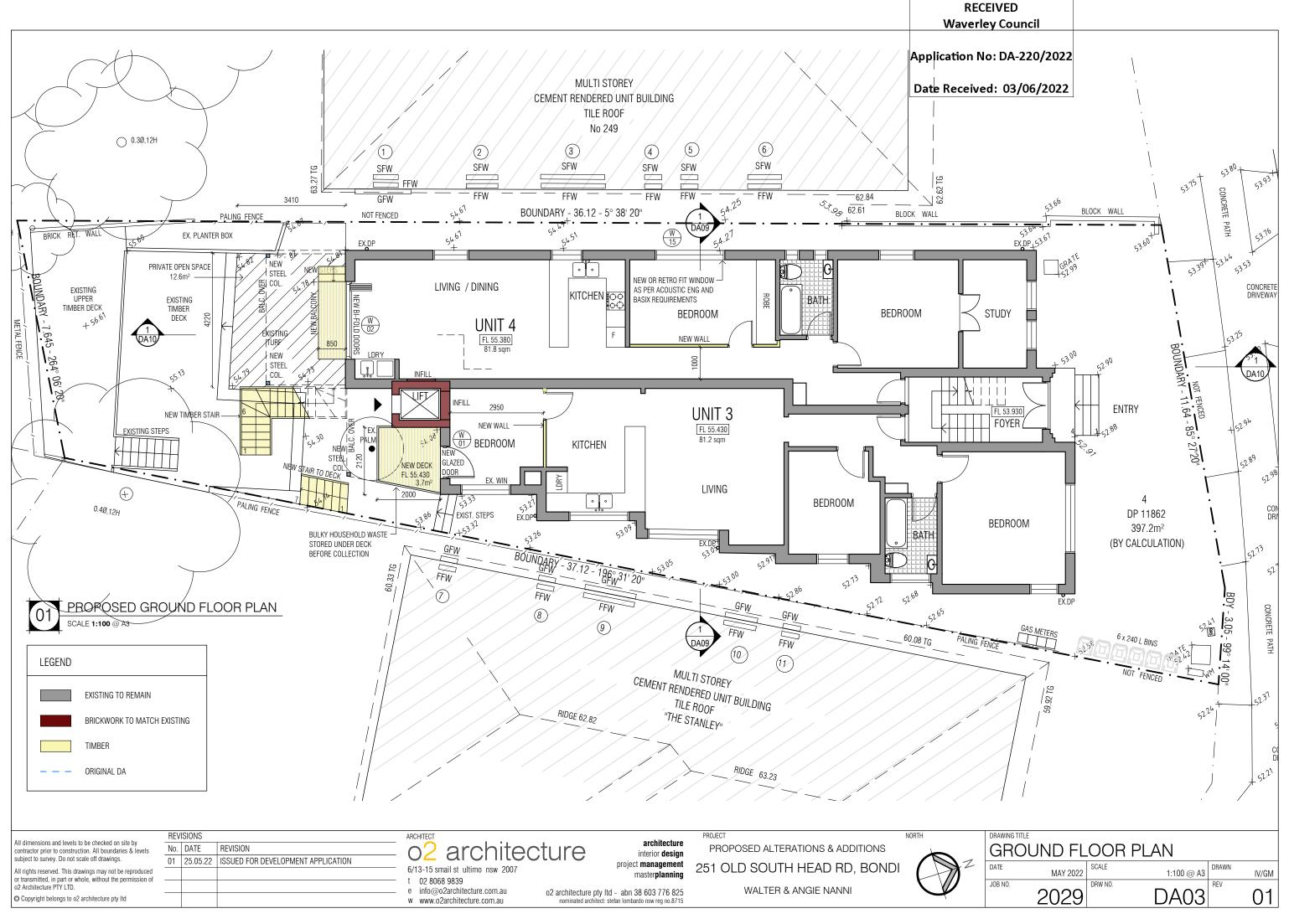
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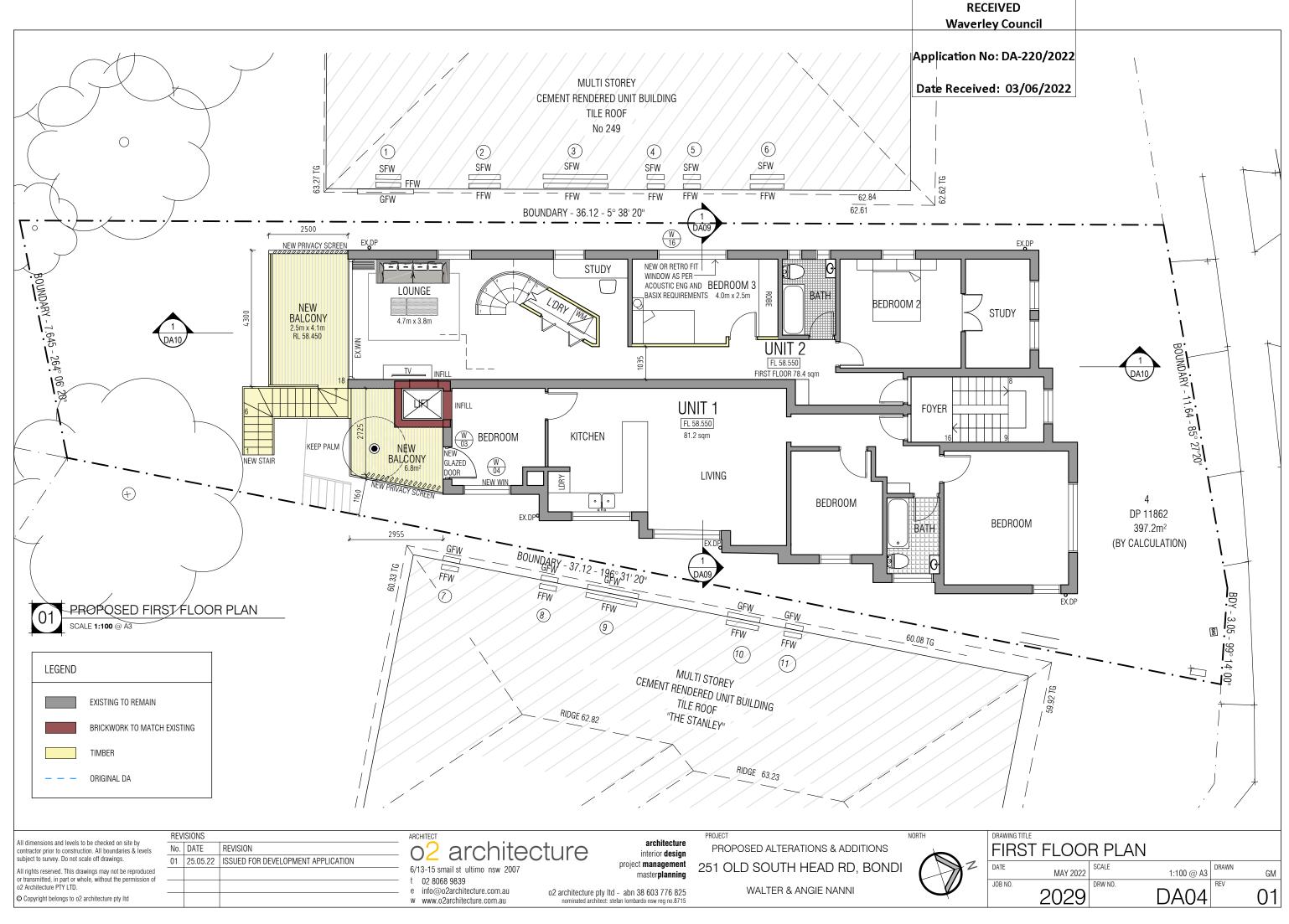
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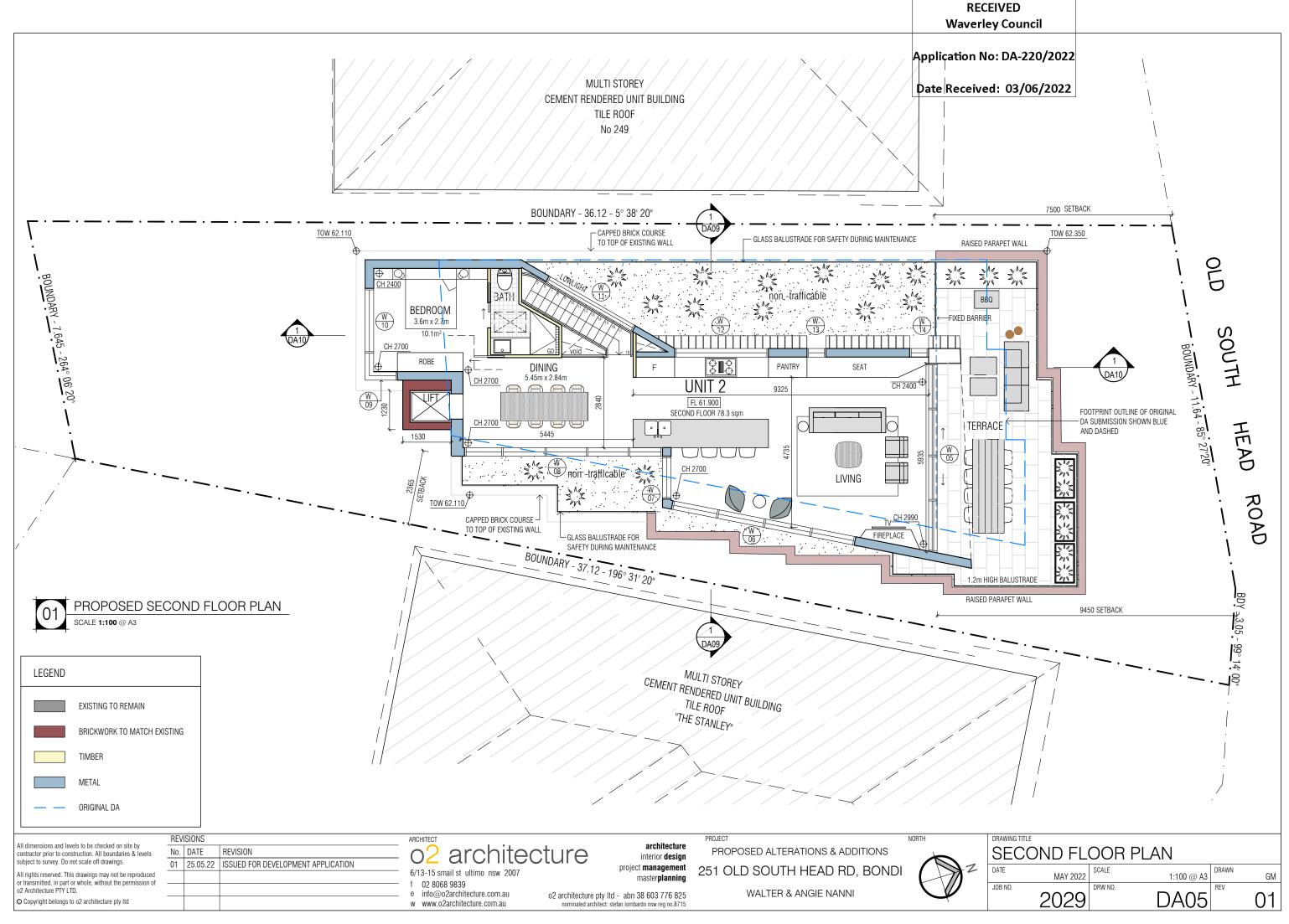
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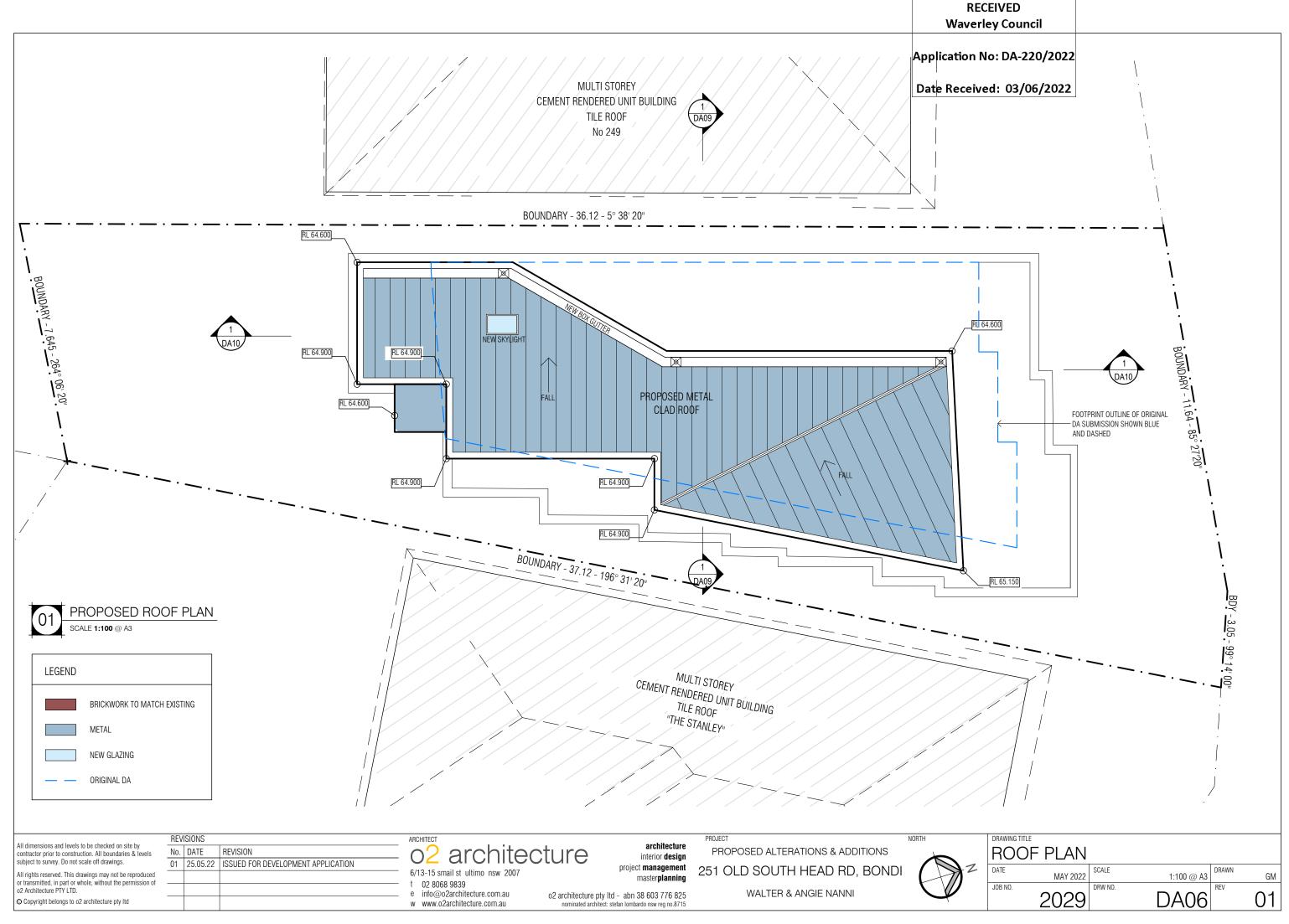




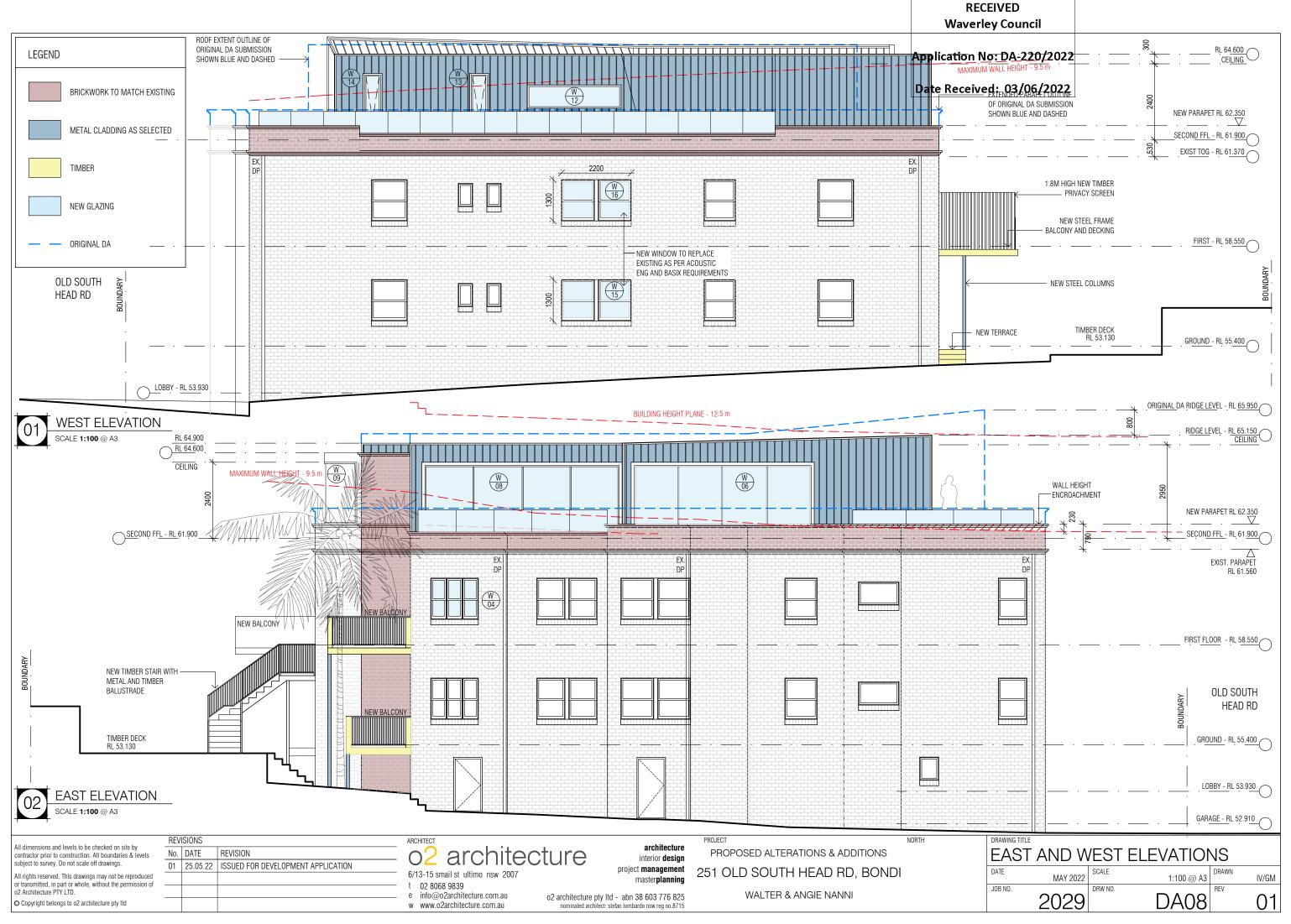




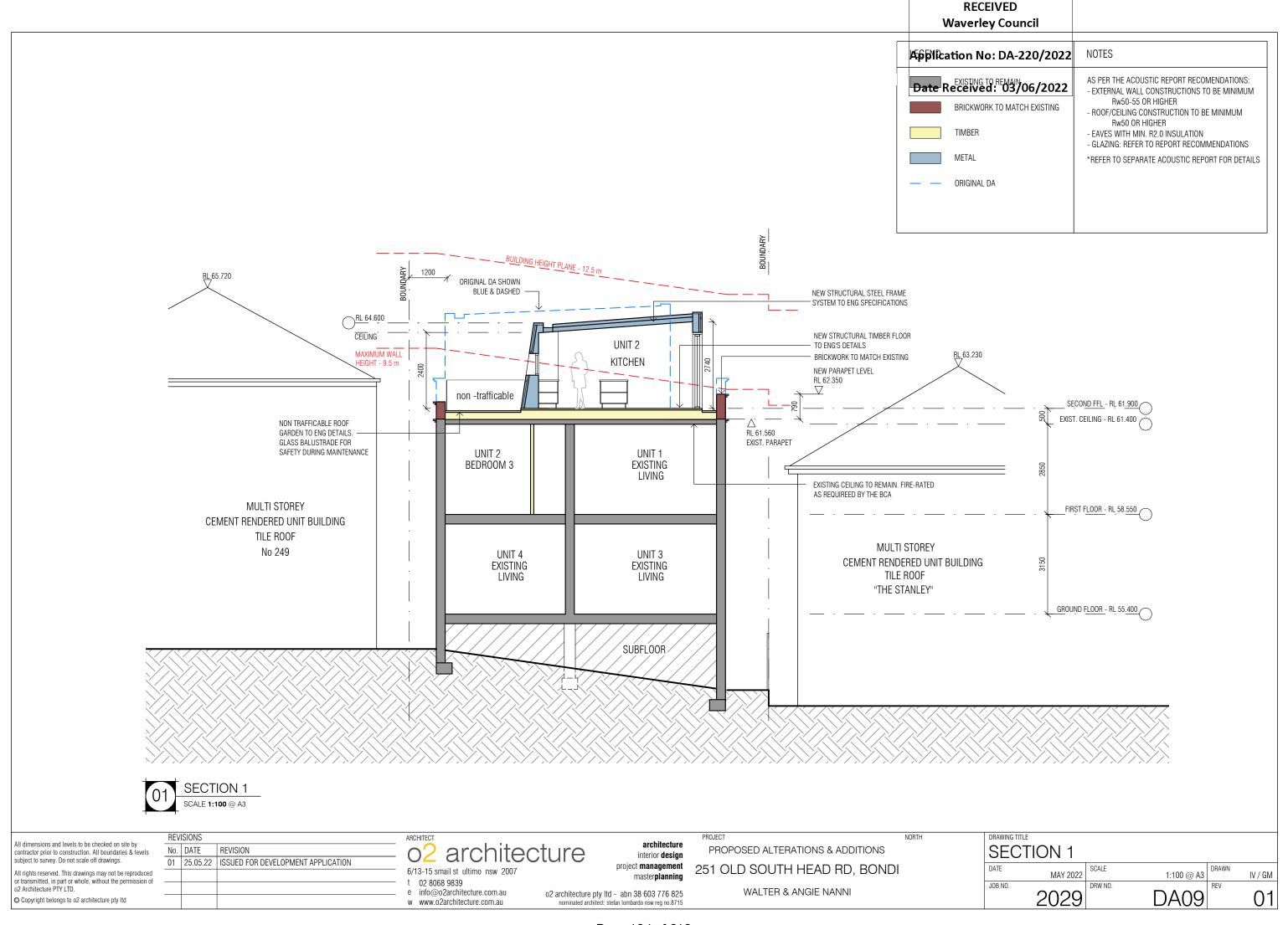


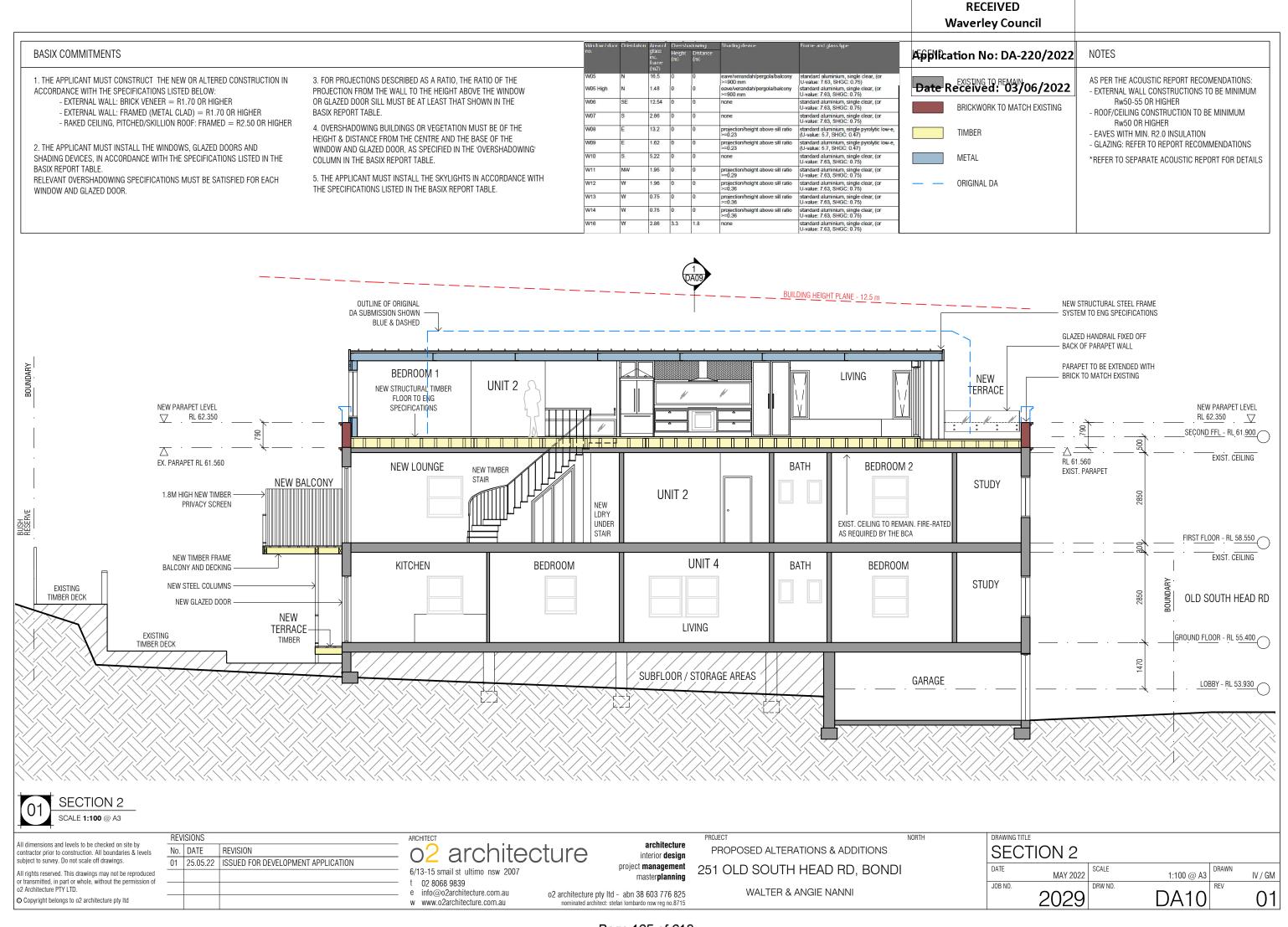


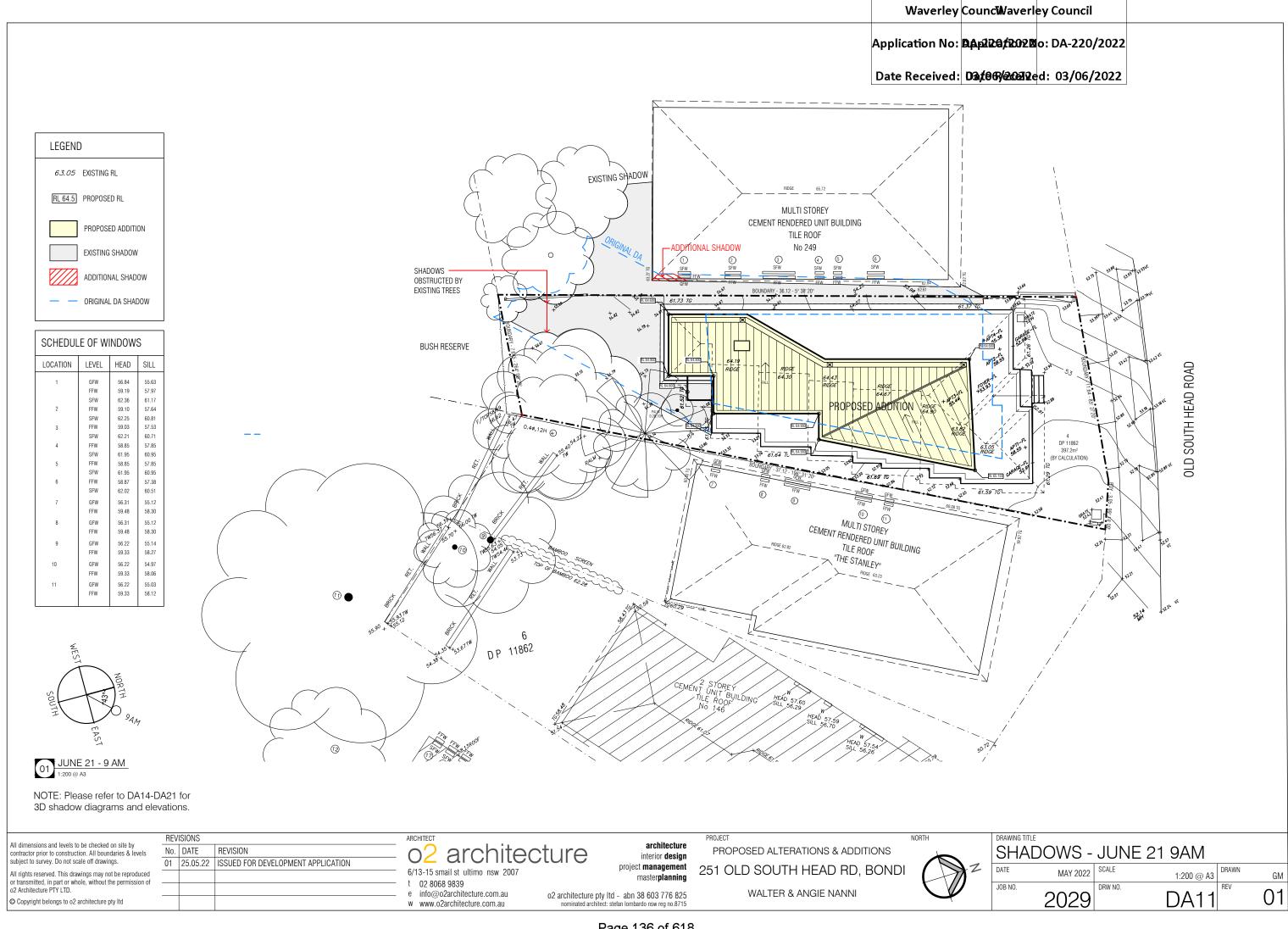




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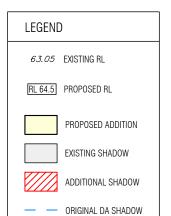


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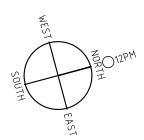
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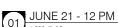
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	SFW	62.36	61.17
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	SFW	62.25	60.81
3	FFW	59.03	57.53
	SFW	62.21	60.71
4	FFW	58.85	57.85
	SFW	61.95	60.95
5	FFW	58.85	57.85
	SFW	61.95	60.95
6	FFW	58.87	57.38
	SFW	62.02	60.51
7	GFW	56.31	55.12
	FFW	59.48	58.30
8	GFW	56.31	55.12
	FFW	59.48	58.30
9	GFW	56.22	55.14
	FFW	59.33	58.27
10			
10	GFW	56.22	54.97
	FFW	59.33	58.06
11	GFW	56.22	55.03
	FFW	59.33	58.12
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NOTE: Please refer to DA14-DA21 for 3D shadow diagrams and elevations.

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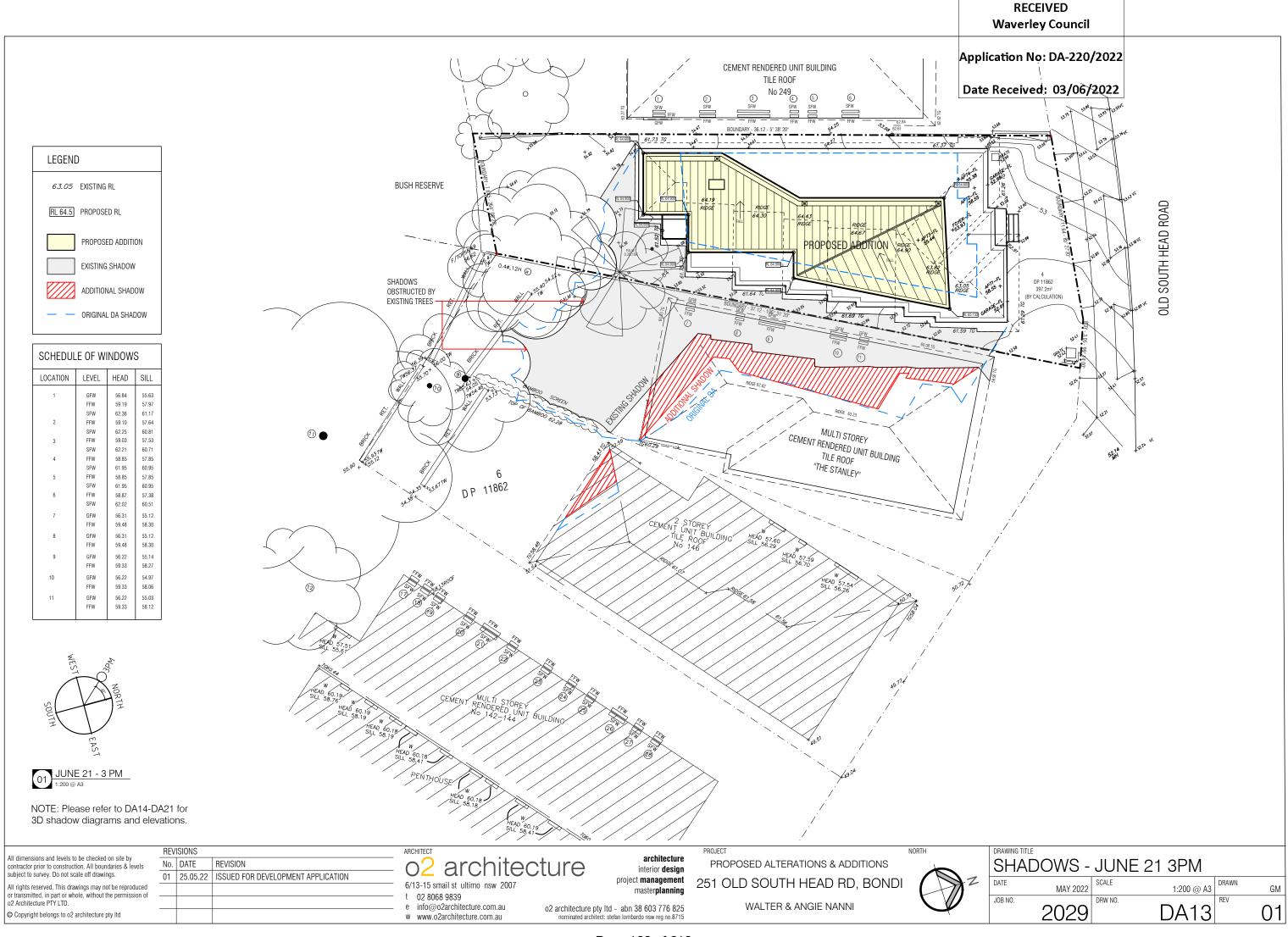
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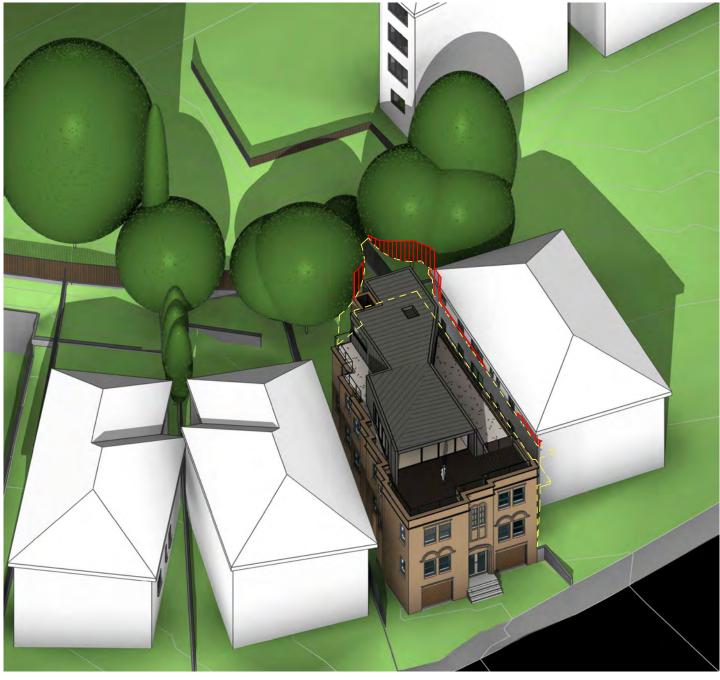
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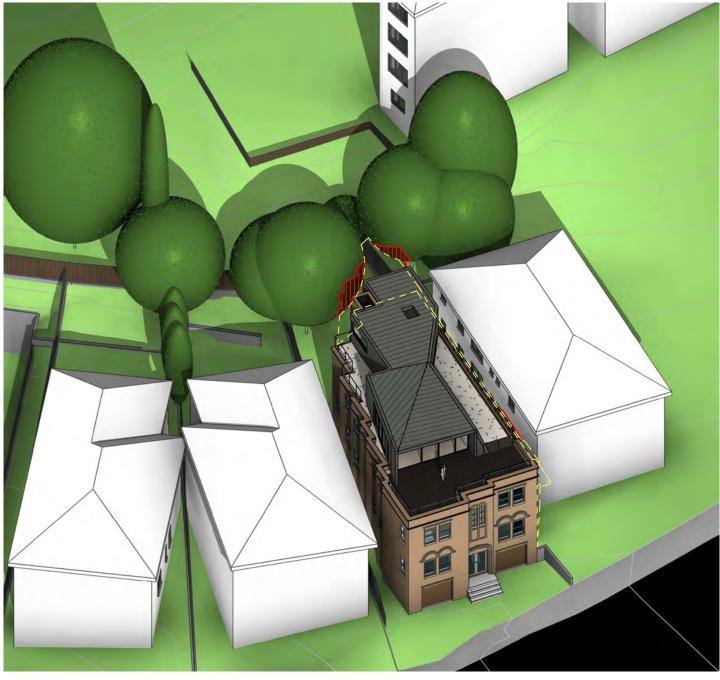
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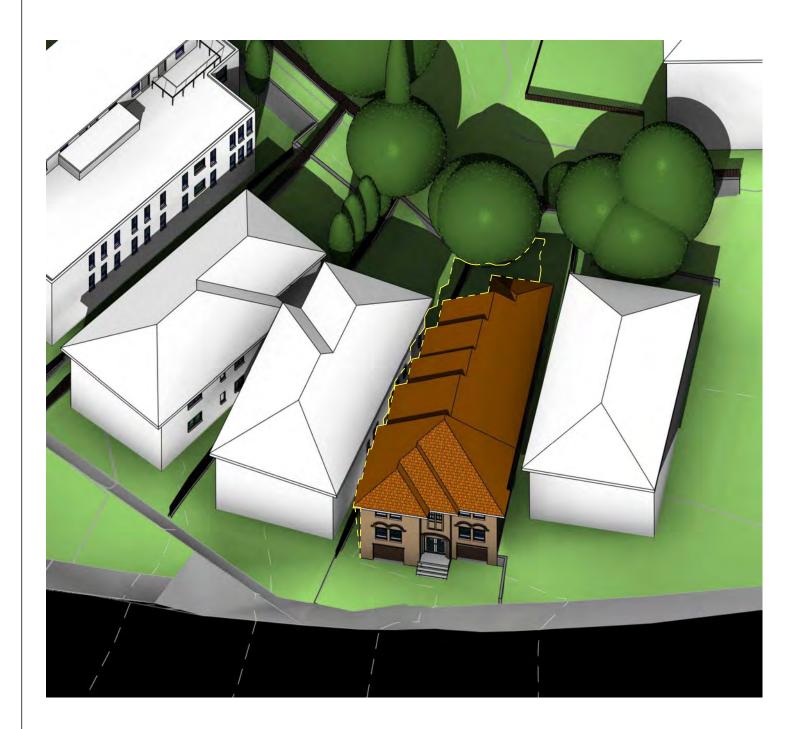
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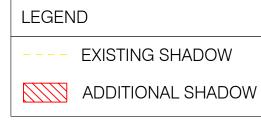
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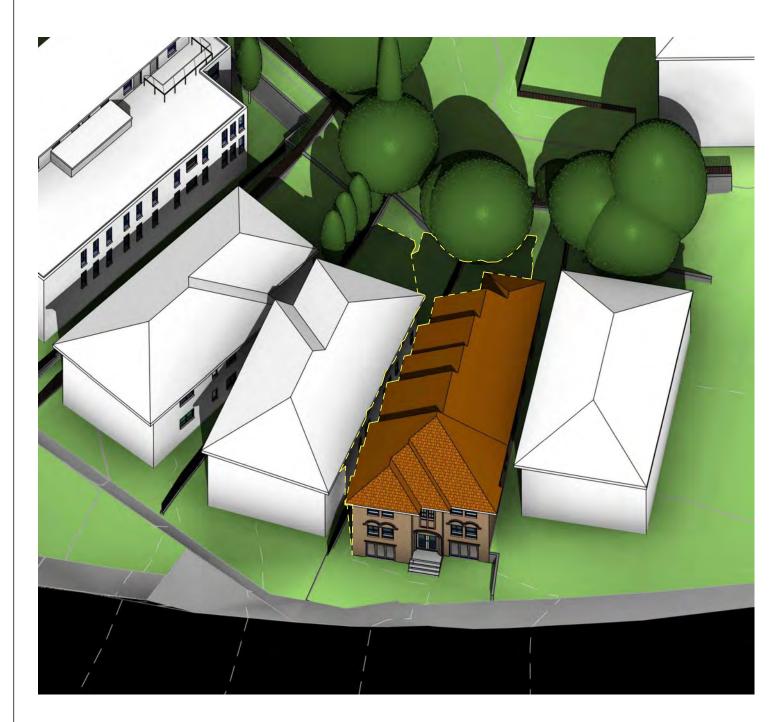
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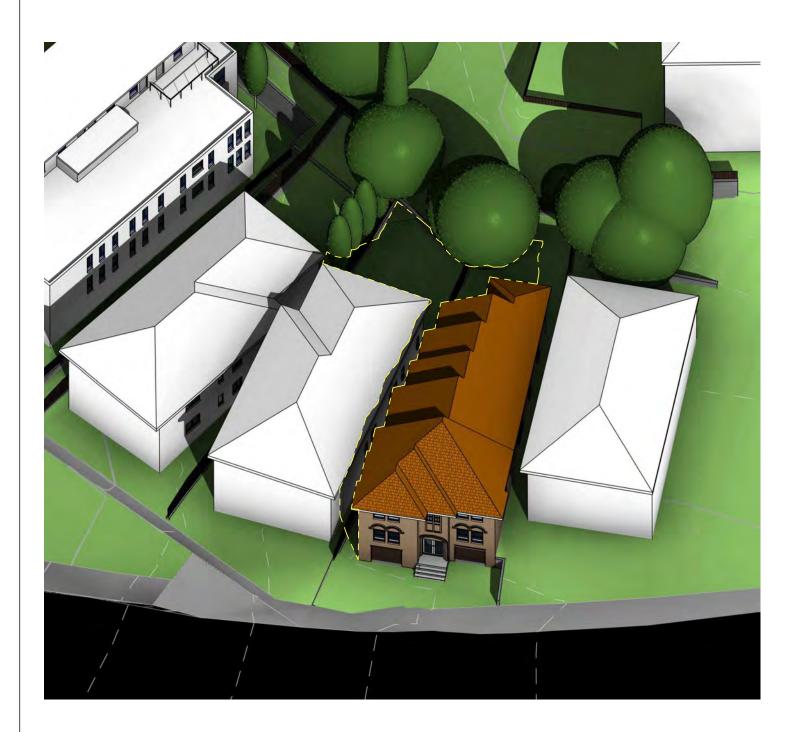
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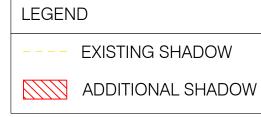
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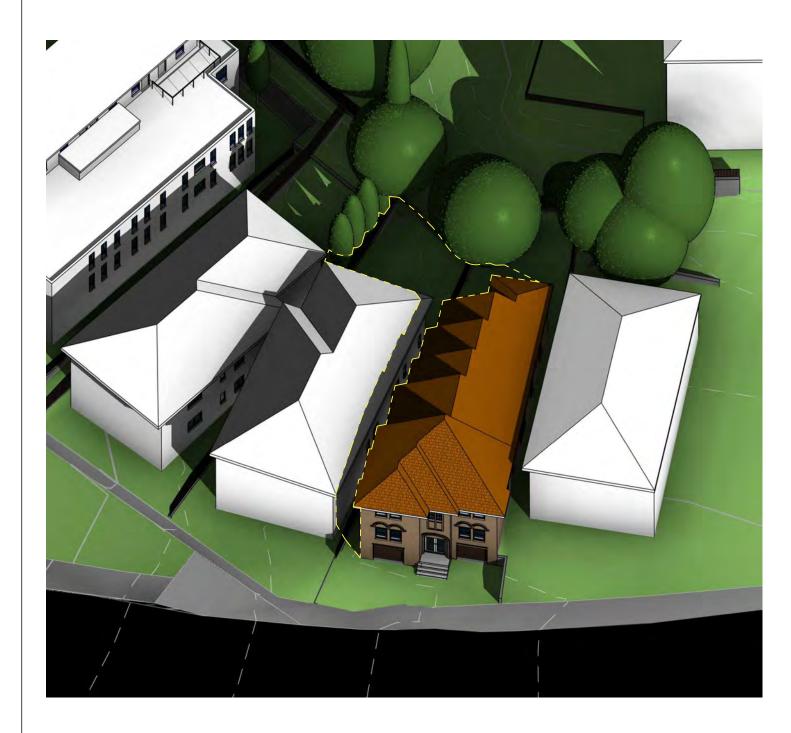
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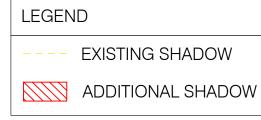
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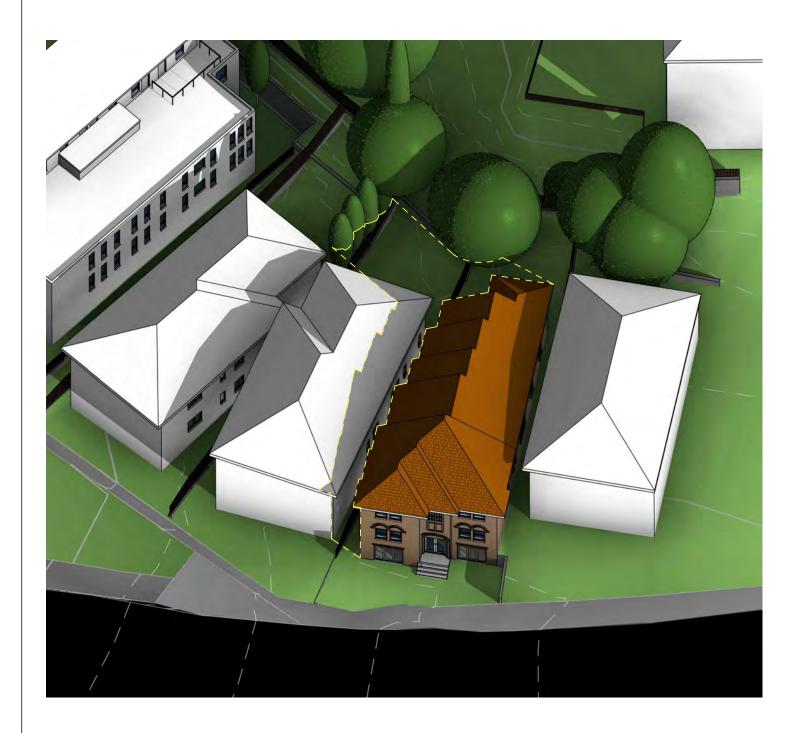
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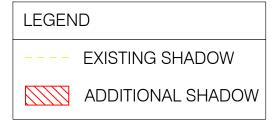
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PROPOSED ALTERATIONS & ADDITIONS
251 OLD SOUTH HEAD RD, BONDI
WALTER & ANGIE NANNI

DRAWING TITLE
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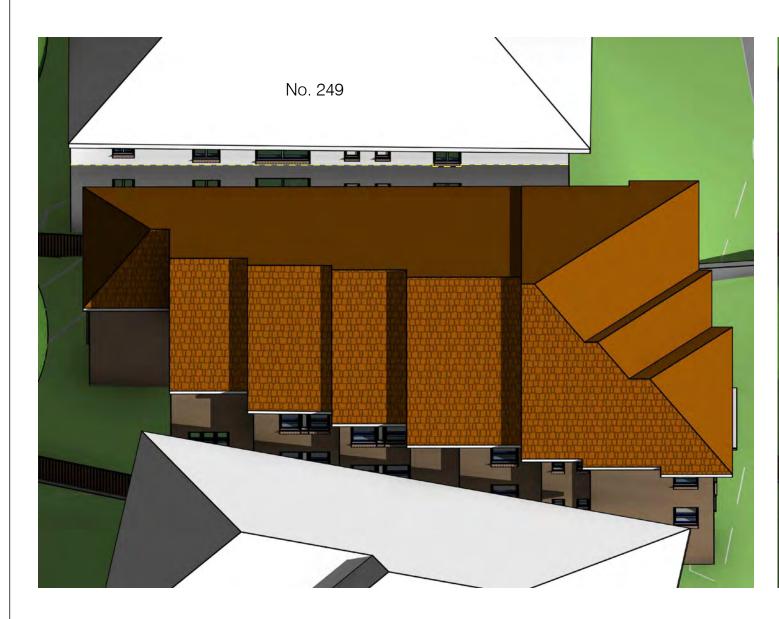
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JOB NO. DA20 REV 01

**RECEIVED Waverley Council** 

Application No: DA-220/2022

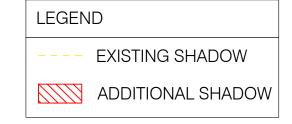
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architecture PROPOSED ALTERATIONS & ADDITIONS 251 OLD SOUTH HEAD RD, BONDI o2 architecture pty ltd - abn 38 603 776 825 nominated architect: stefan lombardo nsw reg no.8715 WALTER & ANGIE NANNI

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RECEIVED **Waverley Council** 

Application No: DA-220/2022

Date Received: 03/06/2022





PROPOSED STREET VIEW

PREVIOUS DA

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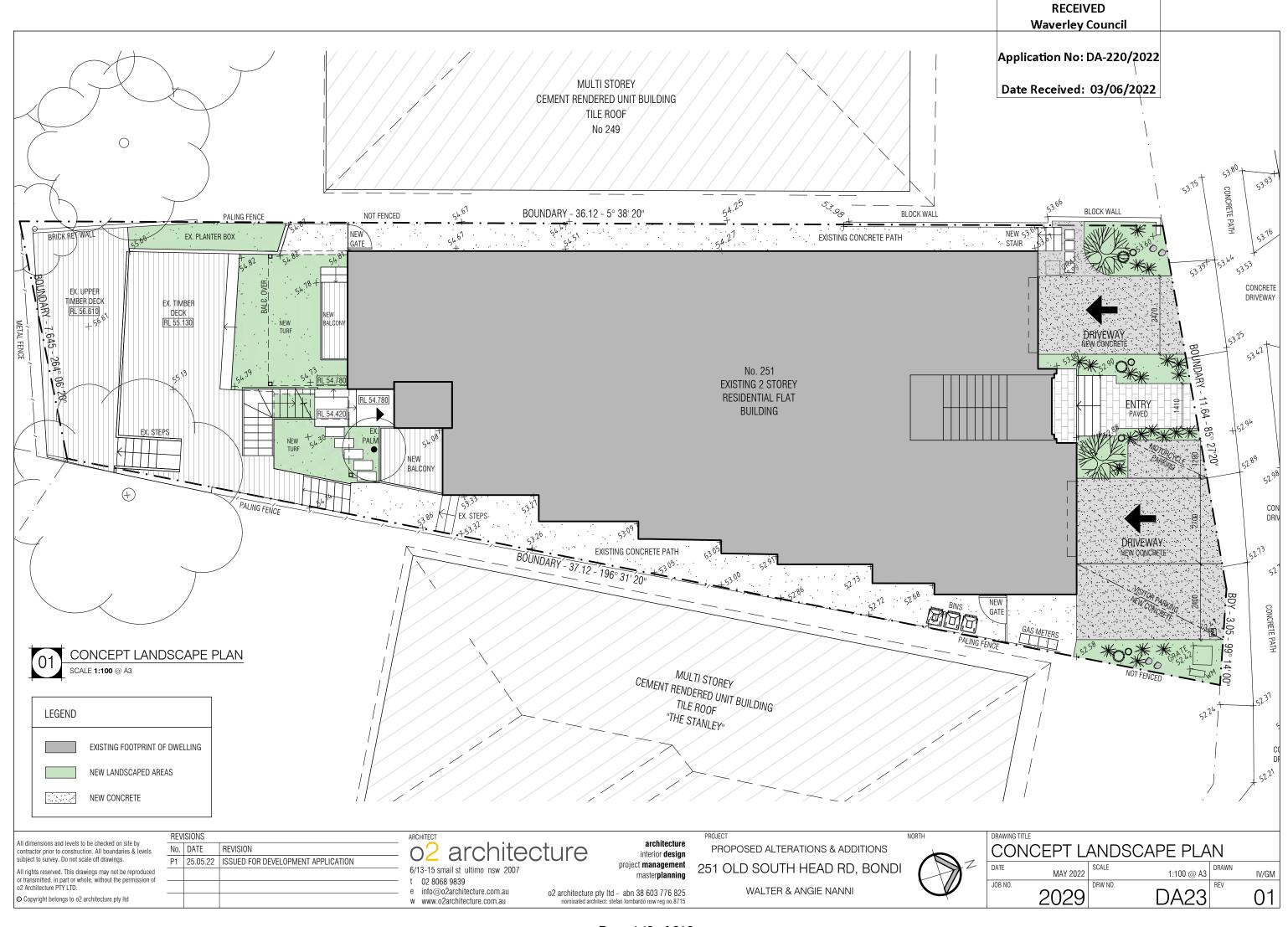
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PROPOSED ALTERATIONS & ADDITIONS 251 OLD SOUTH HEAD RD, BONDI WALTER & ANGIE NANNI

PHOTOMONTAGE - @ A3 DRAWN MAY 2022 SCALE JOB NO. 2029 DA22 01







# Report to the Waverley Local Planning Panel

Application number	DA-199/2022		
Site address	46 Hewlett Street BRONTE		
Proposal	Alterations and additions to an existing residential flat building including three hardstand car spaces and conversion of existing garages to a ground floor unit and additional strata lot PAN-224013		
Date of lodgement	26/05/2022		
Owner	The Owners Strata Plan 74275		
Applicant	The Trustee for the Chavy Property Trust		
Submissions	Eight objections		
Cost of works	\$494 041		
Principal Issues	<ul><li>FSR</li><li>Ceiling heights</li><li>Separation distances</li></ul>		
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.		

## SITE MAP



#### 1. PREAMBLE

## 1.1. Executive Summary

The development application seeks consent for alterations and additions to an existing residential flat building including three hardstand car spaces and conversion of existing garages to a ground floor unit and additional strata lot at 46 Hewlett Street, Bronte.

The principal issues arising from the assessment of the application are as follows:

- FSR
- Separation distances
- Ceiling heights

The assessment finds these issues acceptable. The additional floor space proposed will be contained within the envelope of the existing built form by converting existing garages and storage spaces to an apartment with no increase in height, bulk or scale. The proposal will result in a building with an improved streetscape appearance than the existing non-descript building which currently exists on the site through the inclusion of balconies on the front and rear. The alterations will provide a more contemporary appearance with greater articulation and visual interest. The proposal will not result in unreasonable additional amenity impacts upon surrounding sites.

A total number of eight submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

#### 1.2. Site and Surrounding Locality

A site visit was carried out on 30/09/2022.

The site is identified as SP 74275, known as 46 Hewlett Street, Bronte. The site is rectangular in shape with a frontage to Hewlett Street measuring 12.19m and secondary frontage to Read Lane measuring 12.19m. The site has an area of 426.7m<sup>2</sup> and is generally flat.

The site is occupied by a three-storey residential flat building with vehicular access provided from both frontages to garages on the ground floor level of the building.

The site is adjoined by detached dwellings on either side. The locality is characterised by a variety of low density residential development.

Figures 1 to 4 are photos of the site and its context.



Figure 1: Site viewed from Hewlett Street



Figure 2: Rear elevation viewed from Read Lane



**Figure 3:** Western side boundary viewed from Read Lane showing existing trees



Figure 4: Eastern side setback (existing)

#### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- **DA-280/200**4 for the strata subdivision of the existing three-storey residential flat building into four lots was approved on 25/08/2004.
- SC-31/2004 for subdivision into four lots was issued on 23/12/2004.

#### 1.4. Proposal

The development application seeks consent for alterations and additions to an existing residential flat building, specifically involving the following:

- Conversion of two existing garages and laundries at the ground floor level into a two-bedroom apartment.
- Conversion of part of the eastern side setback into a private courtyard for the use of the new ground level apartment.
- Provision of three hardstand car spaces within the rear setback accessed from Read Lane.
- Refurbishment of the existing entry on the western boundary.
- Provision of balconies to the front and rear at the first and second floor levels.
- New bin storage area within rear north-western corner of the site fronting Read Lane.
- Internal alterations to provide internal laundry areas to each apartment.
- Replacement of windows and doors.
- New strata subdivision plans to reflect the new apartment.

#### 1.5. Background

The development application was lodged on 26/05/2022 and a request for further information was made on 01/06/2022 for the following reasons:

1. The plans and elevations are required to be coloured to clearly indicate all new work, including the balconies.

The corrected plans were provided on 09/06/2022 and form the subject of the assessment within this report.

#### 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

#### 2.1. Existing Use Rights

The development application relies on the 'existing use rights' provisions under Division 4.11 of the Act and Part 5 of the *Environmental Planning and Assessment Regulation 2000* (the Regulations) as a residential flat building is prohibited in the R2 zone under Waverley Local Environmental Plan 2012.

Part 5 of the Regulations allows an existing use to be enlarged, expanded, intensified, altered or extended subject to development consent. Section 4.67 of the Act, concerning regulations respecting existing use, states the following:

- (1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to—
  - (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and
  - (b) the change of an existing use to another use, and
  - (c) the enlargement or expansion or intensification of an existing use.
  - (d) (Repealed)
- (2) The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.
- (3) An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.
- (4) Any right or authority granted by the incorporated provisions or any provisions of an environmental planning instrument extending, expanding or supplementing the incorporated provisions do not apply to or in respect of an existing use which commenced pursuant to a consent of the Minister under section 4.33 to a development application for consent to carry out prohibited development.

In Saffioti v Kiama Municipal Council [2018] NSW LEC 1426 (Saffioti 2018), a Commissioner of the LEC considered the issue of whether the controls in a development control plan (DCP) could be considered in assessing the merits of an application for development consent for development with existing use rights. The Commissioner decided that the relevant controls in the DCP could be considered, as the Act provides that any provisions of an environmental planning instrument (EPI) which would derogate from the provisions in the Regulations have no effect. In Saffioti 2018, the Commissioner found that as a DCP is not an EPI, section 4.67(3) does not apply to the provisions of such an instrument. The Commissioner also considered provisions of the LEP and found that only those provisions of the LEP which could have the effect of prohibiting the development derogated from the incorporated provisions and therefore could not be taken into account.

The Applicant appealed against the Commissioner's findings to a Judge of the Court on questions of law. The appeal was heard by the Chief Judge of the Court and failed on all grounds (Saffioti 2019).

What can be taken away from Saffioti 2019, is that provisions of an EPI (e.g. a local environmental plan) may establish factual pre-conditions that a consent authority must be satisfied exist in order to grant development consent or fix developmental standards. An applicant seeking development consent to enlarge, expand or intensify an existing use must comply with any such provisions.

Such provisions will not derogate from the existing use 'incorporated provisions' in the Regulations. They will only do so (and have no effect for the purpose of section 4.67(3) of the EPA Act) if they derogate from the entitlement to make the relevant development application.

Previously, existing use rights have been assessed as if the provisions of the LEP and DCP do not apply and can only be used as a guide to development in as much as they control development upon surrounding sites. Existing Use Right assessments have been based upon four questions as set out in *Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71*.

Given the outcome of Saffioti 2019, the assessment of existing use rights should be considered against both the development standards of the LEP and the controls of the DCP as detailed within this report. The applicant has submitted a written request under clause 4.6 of the LEP to contravene the height and FSR development standards, which is considered in section 2.2.3 of this report.

In terms of other matters relating to existing use rights, the existing use is not considered to be abandoned as it has not ceased to be used for a continuous period of 12 months (or 3 years between 25 March 2020 and 25 March 2022).

#### 2.2. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.2.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from 1 March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP 65 (Design Quality of Residential Apartment Development) 2002
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021

A detailed discussion is provided for relevant SEPP as follows:

SEPP (Design Quality of Residential Apartment Design)

The application was not referred to the Waverley Design Advisory Excellence Panel (DEAP) as although SEPP 65 applies, the modifications are not considered substantial enough to warrant review by the DEAP. The proposal has been assessed against the provisions of SEPP 65 and is considered to address the nine design quality principles under Schedule 1 of SEPP 65 as detailed in **Table 1**.

Table 1: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Planning Comment
1. Context and Neighbourhood	The proposal is essentially for the use of the existing building envelope to create an additional apartment and the provision of balconies on the front and rear elevation. The existing building on the site already forms part of the context and the proposed alterations to the building will not result in additional unreasonable bulk and scale impacts to surrounding buildings or the streetscape. The proposal addresses this principle.
2. Built form and Scale	The existing building is to be retained with balconies added to the front and rear elevations. The balconies modernise the building appearance and provide articulation to otherwise non-descript facades. The addition of balconies to the building does not result in an unreasonable built form and scale. The proposal addresses this principle.
3. Density	The increased density is contained within the building envelope by converting two existing garages to an apartment. There will be no increase to the bulk and scale of the building itself. The proposal addresses this principle.
4. Sustainability	The new apartment achieves compliant solar access and cross ventilation. All existing deep soil zones are being retained with no expansion of the footprint of the building. The proposal addresses this principle.
5. Landscape	The proposal will retain the existing landscaping except in the northwest corner of the site where existing trees are proposed to be removed to accommodate a relocated bin storage area. As discussed in detail later in this report, the removal of these trees is not supported and a condition will require their retention with the waste storage area to be relocated elsewhere on the site. The proposal addresses this principle.
6. Amenity	The new apartment at the ground floor level will have a high level of amenity with sufficient solar access, a private courtyard and adequate cross ventilation. The amenity of the existing apartments will be improved by internalising the laundries and providing balconies for private open space. The proposal addresses this principle.
7. Safety	The balconies will enable passive surveillance of Hewlett Street at the front of the site and Read Lane at the rear, increasing the security of these areas. The proposal addresses this principle.
8. Housing Diversity and Social Interaction	The proposal will contribute to the housing stock within the immediate vicinity and the LGA within the existing building envelope. Communal open space with direct access from the lobby will be retained for the use of all apartments, increasing social interaction. The proposal addresses this principle.

Principle	Planning Comment
9. Aesthetics	The existing building is to be retained with balconies added to the front and rear elevations. The balconies modernise the building appearance and provide articulation to otherwise non-descript facades. The alterations to the building will result in an improved streetscape appearance on both Hewlett Street and Read Lane. The proposal addresses this principle.
	will result in an improved streetscape appearance on both Hewlett Street and Read Lane. The proposal addresses this principle.

## Apartment Design Guide

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 2** of this report.

**Table 2: Apartment Design Guide** 

Design Criteria	Compliance	Comment
3F Visual privacy		
<ul> <li>Min separation distances from buildings to side and rear boundaries:</li> <li>Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> <li>Increased separation of 3m where adjoins a lower density zone</li> </ul>	No	The proposal utilises the existing envelope of the building and as such, the existing separation distances would continue to apply. The existing building is set back from the eastern side boundary by 2.27m and from the western side boundary by 2.28m. The proposal includes the replacement of existing windows however no new impacts are introduced. The new balconies at the front and rear will be provided with privacy screens to limit overlooking of adjoining sites.
		The ground level apartment will have a separation distance of 2.27m with new doors and windows introduced on the eastern elevation at ground floor level. Given that existing fencing will

Design Criteria	Compliance	Comment
		inhibit overlooking of adjoining properties this is considered acceptable.
4A Solar and daylight access		
<ul> <li>Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm midwinter</li> <li>A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter.</li> </ul>	Yes	The new ground level apartment will receive at least 2 hours in mid-winter.  The remaining apartments are existing and due to the internal layout of the apartments, the living areas do not receive the required amount. Notwithstanding, two of the new balconies will be on the northern elevation and will receive sufficient solar access for an additional two apartments.  All units are triple aspect and as such all receive some direct sunlight mid-winter.  The proposal is consistent with the remaining objectives of this part of the ADG ensuring that daylight access is satisfactory.
4B Natural ventilation		
<ul> <li>All habitable rooms are naturally ventilated</li> <li>Number of units with natural cross ventilation is maximised:         <ul> <li>At least 60% of units naturally ventilated</li> </ul> </li> </ul>	Yes	All habitable rooms to the new apartment are provided with at least one window for natural ventilation.
4C Ceiling heights		
<ul> <li>Habitable rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> <li>2 storey units – 2.7m main level (living) &amp; 2.4m upper floor where its area does not exceed 50% of the unit area</li> <li>Attics – 1.8m at edge of room with a 30° min ceiling slope</li> </ul>	No	The ceiling height within the new apartment is 2.4m. Given that the proposal is to utilise an existing garage area for habitable space, to provide 2.7m high ceilings would require an increase to the building overall which is not possible without reconstructing the rear half of the building. The other way of achieving this is to further excavate the site at this point which is considered to be onerous. The existing apartments within this building also only provide 2.4m high ceilings and therefore the new apartment would be the same as the existing.  As the building is existing and 2.4m ceiling heights are the minimum requirement under the National Construction Code (NCC) this is considered acceptable in this instance.

Design Criteria	Compliance	Comment			
4D Apartment size and layout					
The following minimum internal areas apply:  • 2 Bed = 70 m²  Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	Yes	The new two-bedroom apartment will have an internal area of 70m² complying with the control.  The remaining apartments are existing with internal areas remaining unchanged.  Both bedrooms meet the minimum requirements in terms of dimensions and area.  The kitchen is separate to the circulation spaces.  The proposal is consistent with the objectives of this part of the ADG.			
4E Private open space and balco	nies				
All apartments provide primary balcony as follows:  • 1-bed – 8m² & 2m depth  • 2-bed - 10m² & 2m depth  • 3+bed - 12m² & 2.4m depth  • Ground level, min 15m² & 3m depth	No	The new apartment will have a courtyard with an area of 36m² overall and a principal area of 26m².  The new balconies will have a depth of 1.5m and area of approximately 10m². Although the depth is less than the 2m required by the ADG, the existing residential flat building sits in a low-density residential zone. The balconies comply with the maximum size for balconies permitted for dwelling houses in the R2 zone by the DCP and as such, this is considered appropriate.  All of the apartments will now be provided with a balcony or courtyard. The new apartment will provide access from the main living area. The existing apartments will access the balconies from bedrooms and given that the proposal does not involve internal reconfiguration of the existing apartments, this is considered acceptable.  The design of the balconies and courtyards will improve and contribute to, the architectural form and detail of the building. The finishes of the balconies are consistent with the contemporary palette of materials in the building overall. Screens are provided to enhance privacy.			
4F Common circulation and space	es				
Max of 8 units accessed off a circulation core on a single level	Yes	A maximum of two apartments are accessed from the lobby on each level.			

Design Criteria	Compliance	Comment
4G Storage		
In addition to kitchens, bathrooms and bedrooms, the following is provided:  • 2-bed – 8m³	No	The proposal will result in a loss of storage space for two of the apartments. The remaining two garages and storage areas are oversized providing sufficient area for storage for the two apartments to which they relate. Adjacent to the garages are two further storage rooms that are connected to the garages however could be divided off whilst still providing access to the lobby from the garages. It is considered that these two storage spaces could be allocated to at least two of the other three apartments in the building, possibly all three, potentially providing storage for all apartments. A condition to this effect is included in Appendix A.

## 2.2.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

## 2.2.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 3: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment				
Part 1 Preliminary	Part 1 Preliminary					
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.				
Part 2 Permitted or prohibited de	velopment					
Land Use Table  ● R2 Low Density Residential Zone	No	The land use is defined as a residential flat building which is prohibited in the R2 zone.  The land use of the existing building is as a residential flat building which was approved and constructed prior to the LEP prohibiting the use within the zone and as such is considered to be an Existing Use under Division 4.11 of the EP&A Act.				
Part 4 Principal development standards						

Provision	Compliance	Comment	
4.3 Height of buildings  • 8.5m	No	The proposal will not increase the overall height of the building. Notwithstanding, the proposal includes the installation of skylights within part of the existing roof which already exceeds the height development standard.  The proposed balconies will have a maximum height of 7.5m complying with the development standard.	
4.4 Floor space ratio • 0.5:1 (213.35m²)	No	The proposal will increase the GFA on site by 46m² to an FSR of 0.91:1 (386m²) exceeding the development standard by 172.65m² or 81%.  The existing building has an FSR of 0.75:1 (340m²) exceeding the development standard by 126.65m² or 59%.	
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.	
Part 6 Additional local provisions 6.1 Acid sulfate soils		The site is classified as Class 5 on the Acid	
U.1 ACIU SUIIdle SUIIS	Yes	Sulfate Soils Map however given the limited excavation proposed is unlikely to encounter acid suflate soils.	
6.2 Earthworks	Yes	The proposal includes excavation to accommodate the new apartment however it is minimal and set back from all boundaries, contained within the envelope of the building. Standard conditions regarding excavation are included in Appendix A. The excavation has been considered and is considered acceptable.	

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards - FSR

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.5:1. The proposed development has an FSR of 0.91:1, exceeding the standard by 172.65m<sup>2</sup> equating to a variation of 81%.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposed variation to FSR does not result in an adverse outcome in the correlation between FSR and maximum building height. The site is subject to an existing variation because the building was built prior to the adoption of the current maximum FSR. The proposal is considered to be consistent with the other bulk and scale provisions of the Waverley LEP and DCP.
  - (ii) The alterations and additions will be compatible with the site and surrounding area. The works associated with the variation are on ground level and therefore will not be visible from both street frontages. The proposal seeks to convert an existing area under the building for the residential unit and subsequently, there will be no change to the existing envelope of the building as a result of the additional floor space. The proposed variation does not impact upon the predominant bulk, scale, streetscape or character of the surrounding area.
  - (iii) The proposal maintains a compatible scale for the existing building. The proposal does not cause any significant impacts on the amenity of adjoining properties, including shadowing, views and privacy. Due to the existing site conditions, the additional GFA is contained within the existing building and therefore are all elements that do not add any undesirable amenity impacts.
  - (iv) The proposed variations ensure the site can achieve a high quality outcome without compromising the desired future character or the amenity of the surrounding area.
  - (v) The variation can be achieved without reducing the availability of car parking for each unit.

- (vi) The proposed variation to the FSR provides a higher standard of internal amenity for the residents without any significant impacts to the amenity of adjoining properties.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The skilful design maintains appropriate privacy between the existing building and adjoining buildings.
  - (ii) The proposal to convert existing non-habitable spaces to residential use within the existing building envelope ensures there will be no material amenity impacts to the adjoining properties.
  - (iii) The design ensures there is no requirement to remove landscaping or trees from the site.
  - (iv) Through maintaining the existing overall building height and envelope, this provides nearby buildings with no additional view loss.
  - (v) The proposed variation does not contribute to additional shadowing as the additional shadowing is created by the proposed front and rear balconies, which is considered to be acceptable.

#### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

#### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant has provided sound justification establishing that the proposal is consistent with the objectives of the FSR development standard and the zoning.

#### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds used to justify the breach are well-considered and sound.

#### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the FSR development standard are as follows:

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,
- (b) to provide an appropriate correlation between maximum building heights and density controls,
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

Objective (a) is not relevant to the subject site.

The additional floor space proposed will be contained within the envelope of the existing built form with no increase in height, bulk or scale. The additional floor space will be achieved by converting existing garages and storage spaces to an apartment. Although a minor amount of excavation will occur, there will be no increase in height.

The proposal will result in a building with an improved streetscape appearance than the existing non-descript building which currently exists on the site. The alterations will provide a more contemporary appearance with greater articulation and visual interest.

As detailed elsewhere in this report, the proposal will not result in unreasonable additional privacy impacts, overshadowing or impacts upon views from surrounding sites. The impacts of the proposal are commensurate with the impacts of the building already existing on the site. In this regard, the amenity of surrounding properties and the locality will be preserved.

Given the above analysis, the proposal is considered to be consistent with the relevant objectives of the development standard.

The subject site enjoys the benefit of existing use rights. Given that the R2 zoning prohibits the land use of residential flat buildings, the R2 zoning does not apply to the development as it is this part of the LEP which derogates from the existing use 'incorporated provisions' in the Regulations.

Notwithstanding, an assessment against the objectives of the R2 zone is provided as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The building is an existing building containing four residential apartments. The addition of another apartment within the building envelope will contribute to the housing needs of the community in an existing building already contained within a low density residential environment. The proposal provides parking consistent with the maximum rates of the DCP encouraging patronage of public transport and walking and cycling. In this regard, the proposal is consistent with the relevant objectives of the zone.

#### Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 zone.

#### Clause 4.6 Exceptions to Development Standards - Height

The application seeks to vary the height development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height development standard of 8.5m. The proposed development contains work (skylights) in part of the existing roof which exceeds the height development standard.

The existing building has a height of 9.44m, exceeding the development standard by 940mm equating to a variation of 11%.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (c) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (d) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal does not provide any additional amenity impacts to the adjoining properties and public spaces. The site maintains appropriate view corridors given there are no changes to the existing roof form.
  - (ii) The skilful design ensures the upgraded building will be compatible with the site and surrounding area. The existing variation does not impact upon the predominant bulk, scale, streetscape or character of the surrounding Bronte area. As such, the proposal is considered a high quality design that will enhance the streetscape.
  - (iii) The proposed variations ensure the site can achieve a high quality outcome without compromising the desired future character or the amenity of the surrounding area.
  - (iv) The site is disadvantaged by an existing building height variation and relies on existing use rights. Consequently, there is no opportunity for a better planning outcome for the proposal and the adjoining properties. Due to the minor nature of the proposal, the upgrades incorporate improve internal and amenity for the residents. Despite the existing height variation, the proposal does not restrict the adjoining buildings being redeveloped in the future.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The skilful design maintains appropriate privacy between the existing building and adjoining buildings.
  - (ii) The proposal to convert existing non-habitable spaces to residential use within the existing building envelope ensures there will be no material amenity impacts to the adjoining properties.
  - (iii) The design ensures there is no requirement to remove landscaping or trees from the site.

- (iv) Through maintaining the existing overall building height and envelope, this provides nearby buildings with no additional view loss.
- (v) The proposed variation does not contribute to additional shadowing as the additional shadowing is created by the proposed front and rear balconies, which is considered to be acceptable.

#### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

#### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant has provided sound justification establishing that the proposal is consistent with the objectives of the FSR development standard and the zoning.

#### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds used to justify the breach are well-considered and sound.

#### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the height development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

Objectives (b) and (c) are not relevant to the subject site.

The additional height is related only to the skylights. The building already exists and as such, no assessment of the existing building height is required. The proposed skylights are likely to fall within the classification of 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) and as such likely do not require consent anyway. Notwithstanding, they have been included as part of the proposed works on the architectural plans and as such are considered under the current assessment. The existing building already exceeds the height development standard and as such, the assessment below focuses only on that part of the roof which is undergoing works which is the skylights.

The skylights will protrude slightly above the existing roof within part of the roof that already exceeds the height development standard. The requirement for a written objection to vary the development standard is a technicality only, as the skylights do not increase the overall height of the building, are contained to the existing roof slope and will have no additional impact upon surrounding properties.

The skylights will only be obscurely visible from the public domain and will not impact upon views, increase overshadowing or cause any privacy impacts. The skylights will not increase the overall height of the building and will not increase the bulk or scale of the building that already exists on the site. The

proposed skylights will increase the amenity of the existing apartments below, improving light, solar access and ventilation (if openable) resulting in improved amenity for the apartments below. For these reasons, the proposal is considered to be consistent with the relevant objectives of the height development standard.

The proposal's consistency with the objectives of the zone has been previously discussed. The proposed skylights will not inhibit this consistency.

#### Conclusion

For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height development standard and the R2 zone.

## 2.2.4. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 is on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

## 2.2.5. Waverley Development Control Plan 2012 (Waverley DCP 2012) - Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 4: Waverley DCP 2012 - Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	The proposal includes the relocation of the existing waste storage area from the northeastern rear corner of the site to the northwestern rear corner of the site. However, the proposal also includes removal of trees to accommodate this. Council's Tree Manager Officer has required that these trees be retained and as such a condition will require that the waste storage area is relocated further to the south to retain the trees.
Ecologically Sustainable     Development	Yes	Satisfactory
3. Landscaping and Biodiversity	Yes	Satisfactory

Development Control	Compliance	Comment
5. Vegetation Preservation	Yes (subject to condition)	As discussed above, the proposal includes the removal of trees to relocate the waste storage area which is considered unacceptable. The trees contribute to the character of Read Lane and provide privacy and as such should be retained. A condition will ensure the retention of the trees.
6. Stormwater	Yes	Satisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
7. Accessibility and Adaptability	Yes	Prescribed conditions require compliance with the National Construction Code (NCC) apply.
8. Transport  Zone 2  Minimum parking rate:	Yes	The proposal provides for five car spaces retaining the existing two garages accessed from Hewlett Street and providing three hardstand car spaces at the rear accessed from Read Lane. The existing double driveway and crossing on the Read Lane frontage will be widened to accommodate three vehicles.  The proposal has been reviewed by Council's Traffic Engineers who have raised no issues with the proposal subject to conditions of consent which are included in Appendix A.
10. Safety	Yes	Satisfactory
12. Design Excellence	Yes	Satisfactory
14. Excavation	Yes	Satisfactory

Table 5: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
3.3 Setbacks		
<ul><li>3.3.1 - Street setbacks</li><li>Consistent street setback</li></ul>	Yes	The extension of the balconies further toward the front generally aligns with the front setbacks of the adjoining dwellings.
<ul><li>3.3.2- Side and rear setbacks</li><li>Minimum side setback:</li><li>1.5m</li></ul>	Yes	There is no change to the existing side setbacks of the building. The balconies will extend to the front and rear with side setbacks of 2.5m on each side.
<ul> <li>Minimum rear setback:</li> <li>6m or predominant rear building line, whichever is the greater setback</li> </ul>	Yes	There is no clearly defined predominant rear setback within vicinity of the site. The balconies will extend to within 5m of the rear setback.  Read Lane at the rear is characterised by garage structures built up to the laneway. The proposal

Development Control	Compliance	Comment
Deep soil along the side boundary min 2m wide	Yes	will remain open at the rear with hardstand spaces along the rear boundary. The rear setback to the balconies is considered acceptable.  The proposal retains the existing deep soil along the eastern side boundary.
3.5 Building design and street	scape	
<ul> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Removal of original architectural features not supported.</li> </ul>	Yes	The existing building is to be retained with balconies added to the front and rear elevations. The balconies modernise the building appearance and provide articulation to otherwise non-descript facades. The alterations to the building will result in an improved streetscape appearance on both Hewlett Street and Read Lane.
3.7 Fences and walls		
Side fence:  • Maximum height: 1.8m Rear fence:  • Maximum height: 1.8m	Yes	The proposal includes a new fence between the rear parking spaces and the windows to the new apartment. This is to be a lattice screen with plants. Given that the parking spaces will be approximately 1m from the living and bedroom windows of the new apartment, a condition will require that the fence is to be a solid structure (rather than lattice) to provide privacy to these windows and inhibit headlight glare into the windows.  New fencing is also proposed to create the new apartment courtyard and define the separate communal space. This fencing will be 1.8m high and is considered acceptable.
3.9 Landscaping		
<ul> <li>Comply with part B3- Landscaping and Biodiversity</li> <li>Minimum of 30% of site</li> </ul>	Yes Yes	Refer to previous discussion in Table 4.  The proposal retains 30% of the site as
area landscaped	W	landscaped area with 63% of that as deep soil.
• 50% of the above is to be deep soil	Yes	
3.10 Communal open space		
<ul> <li>Minimum 15% communal (R3 zone)</li> <li>Minimum dimensions: 6m x 6m</li> </ul>	No	Given the R2 zoning of the site, the most relevant control would be for the R3 zone which allows medium density development.
Minimum of 30% of communal area must		The proposal provides 26m <sup>2</sup> or 6% of the site as communal space on the eastern side of the

Development Control	Compliance	Comment	
receive three hours of sunlight  • Accessible		building with further communal landscaping around the site. The dedicated area on the eastern side provides area for clothes drying in addition to leisure space.  The proposal includes new balconies on the front and rear and a courtyard for the new apartment. At present, none of the apartments have any private open space and the proposal will rectify this issue. Given the improvements to the private open space on the site, the loss of some communal area is considered acceptable.	
3.12 Vehicular access and park	ing		
<ul> <li>Car parking to be integrated into the design of the development</li> <li>Max 1 x 2 way vehicle access point</li> <li>Provided from secondary street or lane</li> <li>Pedestrian safety considered</li> </ul>	Yes	The existing integrated garages at the front are being retained. At the rear, the provision of three hardstand car spaces is considered appropriate as Read Lane is characterised by parking structures and hardstand spaces.  Although the proposal will have two driveway crossings, this is an existing situation. The extension of the width of the driveway crossing is not considered unreasonable given the character and width of the laneway and that no on-street parking is allowed.	
3.13 Solar access and overshad	lowing		
<ul> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid-winter.</li> <li>Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>	Yes	The additional apartment will be contained within the existing building and as such will not result in additional overshadowing of adjoining sites. The new balconies will overshadow adjoining properties throughout the day however the additional shadows are minor and will not detrimentally affect adjoining properties.	
3.14 Views and view sharing			
<ul> <li>Minimise view loss through design</li> <li>Views from public spaces to be maintained.</li> </ul>	Yes	No known public or private views will be impacted by the proposed development.	
3.15 Visual privacy and securit			
<ul> <li>Above ground open space must not overlook rooms and private landscaped</li> </ul>	Yes	The new balconies at the front and rear provide screening where appropriate. There are sufficient separation distances from the properties at the	

Development Control	Compliance	Comment
areas of adjoining properties or be screened  Privacy be considered in relation to context density, separation use and design.  Prevent overlooking of more than 50% of private open space of lower level dwellings in same development		rear to ensure privacy impacts are not unreasonable. Additionally, the balconies are accessed from bedrooms which are rooms of low use with reduced visual and acoustic privacy impacts. The balconies are positioned on the site so that they would predominantly overlook the rooves of the directly adjoining properties. A condition will require that the side screening for the rear balconies extend for the full width of the balconies. At the front, the balconies will overlook the street and the front setbacks of adjoining properties which are areas of low privacy levels. These balconies are partially screened on the side boundaries and this is considered sufficient given it is a front elevation.  All replacement windows on the side elevations are within existing openings and therefore will have no greater privacy impacts than that which already exists. The new windows on the front and rear overlook the street and laneway and are a sufficient distance from properties opposite.  The new balconies will not overlook the private open spaces of apartments within the development.  The addition of one apartment is not considered to result in unreasonable acoustic privacy impacts given the residential use generates noise consistent with surrounding residential uses.
3.19 Acoustic privacy		
Internal amenity by     locating noisy areas away     from quiet areas	Yes	The layout of apartments within the building are generally similar. No unreasonable acoustic privacy impacts are anticipated.
3.21 Building services	.,	
<ul> <li>Services are to be integrated into the design of buildings</li> <li>Outdoor Communal clothes drying area to be</li> </ul>	Yes	The existing services to the building remain. The new garbage storage is within the rear of the site adjacent to laneway.  The communal area includes a clothes line.
provided		

## 2.3. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.4. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.5. Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of eight unique submissions were received from the following properties:

Table 6: Number of and where submissions were received from.

Count	Property Address
1.	33 Hewlett Street BRONTE
2.	35 Hewlett Street BRONTE
3.	42 Hewlett Street BRONTE
4.	44 Hewlett Street BRONTE
5.	48 Hewlett Street BRONTE
6.	41 Read Street BRONTE
7.	43 Read Street BRONTE
8.	45 Read Street BRONTE

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- FSR, bulk and scale
- The written objections to a development standard are inadequate
- Height
- Removal of trees
- Privacy
- Traffic and parking
- Inconsistent with the R2 zoning of the site
- Overshadowing
- Stormwater
- Waste
- Non-compliance with LEP and DCP provisions
- Rear setback
- Side setbacks

Separation distances

Inadequate provide of landscaped area and deep soil

All other issues raised in the submissions are summarised and discussed below.

Issue: No traffic impact study has been provided.

**Response:** The proposal is for one additional apartment and one additional car space on the site. Traffic and Transport Management Plans are required for larger redevelopments with 15 apartments or more under the provisions of the DCP. As such a traffic impact study is not required.

Issue: Construction impacts

**Response:** Council cannot refuse an application due to construction impacts. All standard conditions relating to construction are included in Appendix A.

*Issue:* The proposal will read as three-storeys in height from Hewlett Street and Read Lane which is inconsistent with the desired two-storey character expressed by the 8.5m height standard.

**Response:** The building already reads as three-storeys from both Hewlett Street and Read Lane because it is a three-storey building. Notwithstanding, the controls for the site are not related to storeys. There is no control which requires that the building on the site is two-storeys. The proposed balconies do not exceed the height development standard.

Issue: Loss of outlook

**Response:** There are no controls relating to loss of outlook which is a very broad generalised term. The DCP contains controls for loss of significant views, however 'outlook' is not considered a significant view.

Issue: Poor articulation

**Response:** The provision of balconies on the front and rear improves the articulation of the building which currently presents flat, non-descript facades to the streetscapes at the front and rear.

Issue: The developers are not residents of the street and the residents will be tenants.

**Response:** This matter is not relevant to the assessment.

Issue: Landlord leaves rubbish in the rear of the property.

**Response:** This matter is not relevant to the assessment.

Issue: Traffic is already an issue in Read Lane.

**Response:** The proposal introduces one additional car space to Read Lane. This is unlikely to cause traffic impacts and does not warrant the refusal of the application.

#### 2.6. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

#### 3. REFERRALS

The following internal and external referral comments were sought:

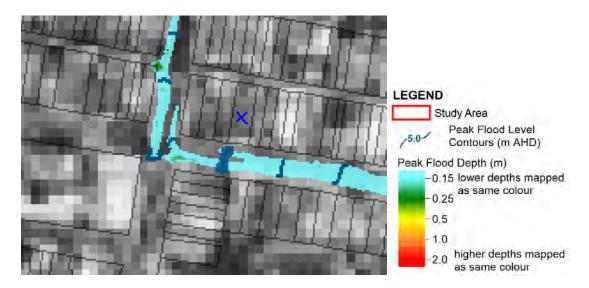
#### 3.1. Traffic and Development

Advise from Council's Traffic Engineers is that the traffic and parking requirements are satisfied and conditions were recommended which are included in Appendix A.

#### 3.2. Stormwater

Conditions were provided which are included in the recommendation. The following additional commentary was also provided (in part):

- The property is on land identified as flood affected under the Council endorsed Waverley LGA Flood Study 2021;
- The Waverley LGA Flood Study 2021 identifies the extent and depth of flooding during a 1% Annual Exceedance Probability (AEP) event as seen in the image below:



• The Waverley LGA Flood Study 2021 identifies the depth of flooding during a Probable Maximum Flood (PMF) event to be **50.837 m** AHD (at the maximum).

As the property is generally outside the flood extents, it is unlikely that the proposed works will change the existing flood behaviour (resulting in unacceptable offsite impacts). Consequently,

flood related development controls will not be applied;

For adequate drainage purposes, the finished floor level (FFL) of the habitable areas should be at least 150 mm above the adjacent ground level. It is also highly recommended that all outdoor areas and non-habitable areas to be set a minimum 150 mm above the adjacent ground level. As such,

lowering the existing ground level to 50.00 m to achieve the adequate clear height for the proposed

new 2-bedroom apartment is not ideal. Therefore, an advisory flood related comments have been

added to this referral.

The Waverley LGA Flood Study has no statutory weight at present and as such, the site is not flood

affected under the provisions of the LEP and DCP. In this regard, the above comments cannot be

enforced and as such an advisory condition is included on the consent.

3.3. Tree Management

Advice from Council's Tree Management Officer is that the trees on the western side boundary are to

be retained and the waste storage area relocated. Conditions were recommended which are included in

Appendix A.

3.4. Building – Fire Safety

A BCA report was requested which has been required by condition in Appendix A.

3.5. Land Information

Conditions were recommended which are included in Appendix A.

3.6. Waste and Recycling

At the time of writing of this report, no comments have been provided.

4. CONCLUSION

The application has been assessed against the relevant matters for consideration under section 4.15(1)

of the Act. It is recommended for approval subject to conditions of consent.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 04/10/2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: M Reid, A Rossi, E Finnegan and B Magistrale

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
dence	
Kylie Lucas	Angela Rossi
Senior Development Assessment Planner	Manager, Development Assessment
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 04/10/2022	Date: 10/10/2022

## Reason for WLPP referral:

- 3. Departure from any development standard in an EPI by more than 10%
- 4. Sensitive development:
  - (a) SEPP 65 development

## APPENDIX A - CONDITIONS OF CONSENT

## A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by PTI Architecture of Project No: P607 including the following:

Plan Number	Plan description	Plan Date	Date received by
and Revision			Council
DA 04 Rev. P4	PROPOSED GROUND FLOOR PLAN	24/02/2022	09/06/2022
DA 06 Rev. P3	PROPOSED LEVEL 1 FLOOR PLAN	24/02/2022	09/06/2022
DA 08 Rev. P3	PROPOSED LEVEL 2 FLOOR PLAN	24/02/2022	09/06/2022
DA 10 Rev. P3	PROPOSED ROOF PLAN	24/02/2022	09/06/2022
DA 11 Rev. P1	READ LANE PARKING ACCESS	11/02/2022	09/06/2022
	DIAGRAM		
DA 12 Rev. P4	EAST EXTERIOR ELEVATIONS	28/02/2022	09/06/2022
	(SHEET 1)		
DA 13 Rev. P4	WEST EXTERIOR ELEVATIONS	28/02/2022	09/06/2022
	(SHEET 2)		
DA 14 Rev. P4	NORTH EXTERIOR ELEVATIONS	28/02/2022	09/06/2022
	(SHEET 3)		
DA 15 Rev. P4	SOUTH EXTERIOR ELEVATIONS	28/02/2022	09/06/2022
	(SHEET 4)		
DA 16 Rev. P3	SECTION A	24/02/2022	09/06/2022
DA 17 Rev. P3	SECTION B	24/02/2022	09/06/2022
DA 33 Rev. P1	BASIX CERTIFICATE COMMENTS	16/05/2022	09/06/2022
	(SHEET 1)		
DA 34 Rev. P1	BASIX CERTIFICATE COMMENTS	16/05/2022	09/06/2022
	(SHEET 2)		

- (b) BASIX and NatHERs Certificates
- (c) Proposed Strata Subdivision Plan Surveyor's reference 63693 NS, Sheets 1 to 4 prepared by Hill and Blume received by Council on 18/05/2022.

Except where amended by the following conditions of consent.

## 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments:

(a) The removal of trees from the site is not approved and as such the waste storage area is required to be relocated further to the south, contained within the western side boundary to ensure retention of the trees.

- (b) Each apartment is to be allocated a storage area. Given the size of the retained garages, sufficient storage for Lots 1 and 3 is considered available within the existing garages. The remaining three apartments are to be allocated the retained storage rooms at the ground floor level. These are to be divided to provide three separate storage areas, noting that direct access from the garage spaces to the lobbies may also be included in the division of these areas if possible. The strata plan is to be updated accordingly to reflect the storage areas.
- (c) To reduce impacts upon the new apartment from cars parked within the hardstand parking area, the new northern fence between the ground level apartment courtyard and the parking spaces is to be of solid construction, rather than lattice.
- (d) The side boundary privacy screens on the rear balconies are to extend for the full depth of the balconies.

The amendments are to be approved by the **Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

#### 3. STRATA SUBDIVISION

This consent includes approval for five lot Strata subdivision of the building proposed in the development.

A Strata Certificate must be obtained from either Council or a Registered Certifier in accordance with either Section 54(1) or Section 58(1) of the *Strata Schemes Development Act 2015*.

The allocated car parking and storage spaces, are not permitted to be subdivided as individual allotments and are to be part lots allocated to individual residential allotments or identified as common property as shown on the approved plans. Part allotments are to be generally allocated in accordance with the parking and storage requirements of Waverley Development Control Plan 2012. No exclusive use of common property shall occur without the prior consent of Council.

## **B.** PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

## **GENERAL REQUIREMENTS**

#### 4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **CONTRIBUTIONS, FEES & BONDS**

#### 5. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

A cost report indicating the itemised cost of the development shall be completed and submitted to Council:

- (i) Where the total development cost is less than \$500,000:
  - "Waverley Council Cost Summary Report"; or,
- (ii) Where the total development cost is \$500,000 or more:
  - "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

(a) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

- i. A development valued at \$100,000 or less will be exempt from the levy;
- ii. A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
- iii. A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### 6. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$11 230 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### 7. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

#### **CONSTRUCTION & SITE MATTERS**

#### 8. BUILDING CODE OF AUSTRALIA ASSESSMENT REPORT

To assist in determining whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia, the applicant shall carry out the following which is to be submitted to Council for approval prior to the issue of any construction certificate:

(a) Engage the services of a suitably qualified Building and Fire Safety Consultant (i.e. Building Surveyor/Accredited Certifier) to undertake a Building Code of Australia (BCA) assessment of the existing building against the deemed-to-satisfy provisions of Sections C, D, E and F of the BCA.

(b) The appointed Building and Fire Safety Consultant is to incorporate the findings/results of the fire safety audit of the subject premises into a BCA/Fire Safety Upgrade Report. The report must set out a strategy, scope of works and recommendations in order to provide the premises with adequate means of fire safety to prevent fire, suppress fire, prevent the spread of fire and ensure or promote the safety of persons in the event of fire. Please note that where Building Solutions contained within the Building Code of Australia are not applied in the Fire Safety Upgrade Report to address a non-compliance identified during in the fire safety audit of the premises, such non-application must be justified.

All new works must fully comply with the provisions of the BCA and the subject report must clearly reflect this.

- (c) A concluding statement in the BCA Assessment confirming that any modifications and advancement in level of details required to the proposal in order to satisfy the requirements of the BCA will not necessitate the need for any significant design changes that in turn would necessitate the submission of an application under Section 4.55 of the Environmental Planning and Assessment Act 1979.
- (d) A schedule of proposed Essential Fire Safety Measures for the proposed building, including their standard of performance, must be included in the BCA Report.

The report shall be submitted to Council's Fire Safety Officer for review and approval prior to the issue of any Construction Certificate.

#### 9. ESSENTIAL SERVICES - EXISTING BUILDING

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and
- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

#### 10. FIRE SAFETY UPGRADING WORKS

a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Section 64 of the Environmental Planning and Assessment Regulations 2021, all existing areas of the subject

building must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):

- (i) Fire resistance and stability Part C1;
- (ii) Compartmentation and separation Part C2;
- (iii) Protection of openings Part C3
- (iv) Provision for escape Part D1;
- (v) Construction of exits Part D2;
- (vi) Access for people with a disability D3 (to the extent necessary in order to comply with the
   Disability (Access to Premises Buildings) Standards 2010);
- (vii) Fire fighting equipment Part E1;
- (viii) Smoke hazard management Part E2;
- (ix) Emergency lighting, exit signs and warning systems Part E4;
- (x) Sanitary and other facilities Part F2;
- (xi) Room heights Part F3;
- (xii) Light and ventilation Part F4; and
- (xiii) Sound transmission and insulation Part F5.
- b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, a performance solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

Note: The provisions of Section 64 of the Environmental Planning and Assessment Regulations 2021 have been considered in the assessment of the proposed development.

#### 11. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the

hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

#### 12. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

#### 13. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

#### 14. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### 15. STRUCTURAL DOCUMENTATION

- (a) A full set of completed structural documentation including a construction management plan detailing the construction intent and stability should be submitted to a third party geotechnical and structural engineer for 'design intent' review and comment prior to approval. The engineers must have relevant experience, have chartered status with the Institute of Engineers Australia and be registered on the National Engineers Register.
- (b) The documentation provided by the principal structural engineer should detail the follow:
  - (i) design and documentation of the Strengthening and Stability requirements to ensure the existing building is suitable for the intended alteration and additions, and

(ii) provide detailed procedure on the methodology and constructability of the proposed work within the existing / approved building envelope, in particular to the excavation works.

Satisfaction of the third party structural engineer and project geotechnical engineer that the construction management plan will provide for the retention of the building and its structural integrity must be demonstrated to the consent authority prior to the issue of the relevant Construction Certificate.

#### 16. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate. Please make early contact with the Coordinator, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

#### **TRAFFIC MANAGEMENT**

#### 17. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development\_applications/post\_determination/development\_applications - conditions of consent\_applications - conditions - conditions of consent\_applications - conditions - condit

#### **STORMWATER & FLOODING**

#### 18. STORMWATER MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the

development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

- (a) The submitted stormwater management plan prepared by Geba Consulting, Project No. GC22069, Drawing No. SW01, SW02, SW03, Revision A, dated 15.03.2022, is considered concept only.
- (b) The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:
- (c) The plans shall provide a complete and detailed design of any required on-site stormwater detention (OSD) system including multiple cross-sections (drawn to a suitable scale), proposed construction materials, and full orifice details. The checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- (d) A certificate from a registered structural engineer certifying the structural adequacy of any below ground OSD tank structure is to be provided. Any below ground OSD tank structure shall be cast insitu concrete based.
- (e) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (f) Any new downpipes are to be located wholly within the property's boundary.
- (g) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- (h) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

#### Notes:

- The checklist as set out on pages 68-76 on Council's Water Management Technical Manual (Oct 2021) available online shall be completed and submitted with any revision of Construction Certificate Plan Submission.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.

- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any
  additional damage or unauthorised works within the Council property, not conditioned above.
   Council will reserve the right to withhold the cost of restoring the damaged assets from the security
  deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: <u>assets@waverley.nsw.gov.au</u> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

#### 19. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

#### **ENERGY EFFICIENCY & SUSTAINABILITY**

#### 20. BASIX

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

#### **WASTE**

#### 21. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

#### 22. WASTE STORAGE AREAS

The development must have a bin storage area with sufficient space to accommodate the following minimum number of bins for the residential components of the development:

#### Residential:

- o 3 x 240L Mobile Garbage Bins (MGBs) for general waste (collected weekly)
- o 3 x 240L MGBs for paper and cardboard recycling (collected fortnightly)
- o 3 x 240L MGBs for container recycling (collected fortnightly)
- o 1 x 240L MGB for garden organic waste should this be generated at the development.

All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the Waverley Council Development Control Plan 2012 to the satisfaction of the Principal Certifying Authority.

#### C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

#### **PRIOR TO ANY WORKS**

#### 23. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### **DEMOLITION & EXCAVATION**

#### 24. DEMOLITION - ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### 25. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

#### 26. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

#### 27. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

#### **CONSTRUCTION MATTERS**

#### 28. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) Sundays and public holidays.
- (b) Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

#### 29. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### **30. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

#### 31. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002,* clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

#### 32. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### 33. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

#### **VEHICLE ACCESS**

#### 34. RECONSTRUCT VEHICLE CROSSING

The existing vehicle crossing is to be demolished and a new crossing constructed to provide access to the proposed hardstand parking spaces. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

#### 35. VEHICULAR ACCESS - FINISHED LEVELS TO INVERT OF THE GUTTER

The finished level at the property boundary on both sides of the vehicle crossing is to be 110mm above the level of the invert of the existing concrete gutter.

#### TREE PROTECTION

#### **36. TREE PROTECTION**

No trees are permitted to be removed from the site including the *Sysygium species* (lilly Pilly) trees marked for removal on the plans. All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above.

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

# D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### 37. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **38. SUBDIVISION CERTIFICATE**

A Subdivision Certificate must be obtained from Council in accordance with of the *Environmental Planning and Assessment Act 1979* prior to the registration of the subdivision plans.

#### 39. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### 40. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

- (a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, detention facility, rainwater reuse facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- (b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### 41. ON-SITE STORMWATER DETENTION CERTIFICATION

The submission of certification by a suitably qualified and practising Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of any Occupation Certificate.

#### 42. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### 43. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

#### **OTHER MATTERS**

#### **44. ALLOCATION OF STREET NUMBER**

The redevelopment of the property has led to the following allocation of primary and sub-premises (unit) numbering:

• No. 46 Hewlett Street - primary address site number and location.

The primary address site number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the pedestrian entry point and be clearly visible on the site boundary that fronts Hewlett Street.

The following sub-addressing will apply:

• No. 5/46 for the new ground floor unit within the building,

The address number for a sub-address site shall not consist of the primary address number on its own. Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

The primary and sub-address site numbers are to be positioned on the site prior to the issue of the Occupation/Subdivision Certificate.

Any variation to the above premises numbering requires a new application for a Change of street number and/or location to be lodged with Council.

#### **ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to <u>info@waverley.nsw.gov.au</u>
   or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### AD2. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on 1800 810 443.

#### AD4. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### AD5. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### AD6. WAVERLEY LGA FLOOD STUDY 2021

The property is on land identified as flood affected under the Council endorsed Waverley LGA Flood Study 2021. The registered proprietor's attention is drawn to the likelihood that the development may be inundated by flood waters during a 1% Annual Exceedance Probability (AEP) storm event.

As flood events can cause significant damage to property and pose risk to life, it is advised that the following measures are undertaken:

- All new building material should be flood resistant or flood compatible to a height of 1% AEP flood level + 300 mm freeboard.
- All new internal electrical switches, power points or similar utilities liable to flood damage should be set at or above the 1% AEP flood level + 300 mm freeboard.
- A suitably qualified engineer should certify that any new structure can withstand the forces of floodwater, scour debris and buoyancy up to and including the 1% AEP flood level + 300 mm freeboard.
- A storage area should be provided at or above the 1% AEP flood level + 300 mm freeboard for the storage of goods that can be damaged or mobilised by flooding, or goods that have potential to cause pollution during flooding.

In addition, it is recommended that before occupation or prior to the issue of any Occupation Certificate, a site flood emergency response plan is prepared, and any required flood warning system are installed and fully tested. If a plan is created, a copy of this plan shall be submitted to the Private Certifier and to Waverley Council.

Further, it is recommended that certification from a suitably qualified engineer to the effect that the plan has been prepared and where required, the flood warning system have been installed and tested, shall be included with the Occupation Certificate.

The site flood emergency response warning systems and plan should be regularly maintained, reviewed and/or updated and should be in good working order at all times.

### **DRAWING LIST**

00	COVER SHEET
01	SITE PLAN ANALYSIS
02	SITE PLAN
03	EXISTING GROUND FLOOR PLAN
04	PROPOSED GROUND FLOOR PLAN
05	existing level 1 floor plan
06	PROPOSED LEVEL 1 FLOOR PLAN
07	existing level 2 floor plan
08	PROPOSED LEVEL 2 FLOOR PLAN
09	EXISTING ROOF PLAN
10	PROPOSED ROOF PLAN
11	READ LANE PARKING ACCESS DIAGRAM
12	EAST EXTERIOR ELEVATIONS (SHEET 1)
13	WEST EXTERIOR ELEVATIONS (SHEET 2)
14	NORTH EXTERIOR ELEVATIONS (SHEET 3)
15	SOUTH EXTERIOR ELEVATIONS (SHEET 4)
16	SECTION A
17	SECTION B
18	EXISTING GFA & FSR CALCULATIONS
19	PROPOSED GFA & FSR CALCULATIONS
20	GF SOLAR ACCESS DIAGRAMS (SHEET 1)
21	GF SOLAR ACCESS DIAGRAMS (SHEET 2)
22	L1 SOLAR ACCESS DIAGRAMS (SHEET 1)
23	L1 SOLAR ACCESS DIAGRAMS (SHEET 2)
24	L2 SOLAR ACCESS DIAGRAMS (SHEET 1)
25	L2 SOLAR ACCESS DIAGRAMS (SHEET 2)
26	Shadow diagrams (sheet 1)
27	SHADOW DIAGRAMS (SHEET 2)
28	SHADOW DIAGRAMS (SHEET 3)
29	SHADOW DIAGRAMS (SHEET 4)
30	3D VIEWS (HEWLETT ST)
31	3D VIEWS (READ LANE)
32	SURVEY
33	BASIX CERTIFICATE COMMENTS (SHEET 1)
34	BASIX CERTIFICATE COMMENTS (SHEET 2)
	•







# ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

PREPARED FOR

TOM NADAV & ALLEN CHAFKIN



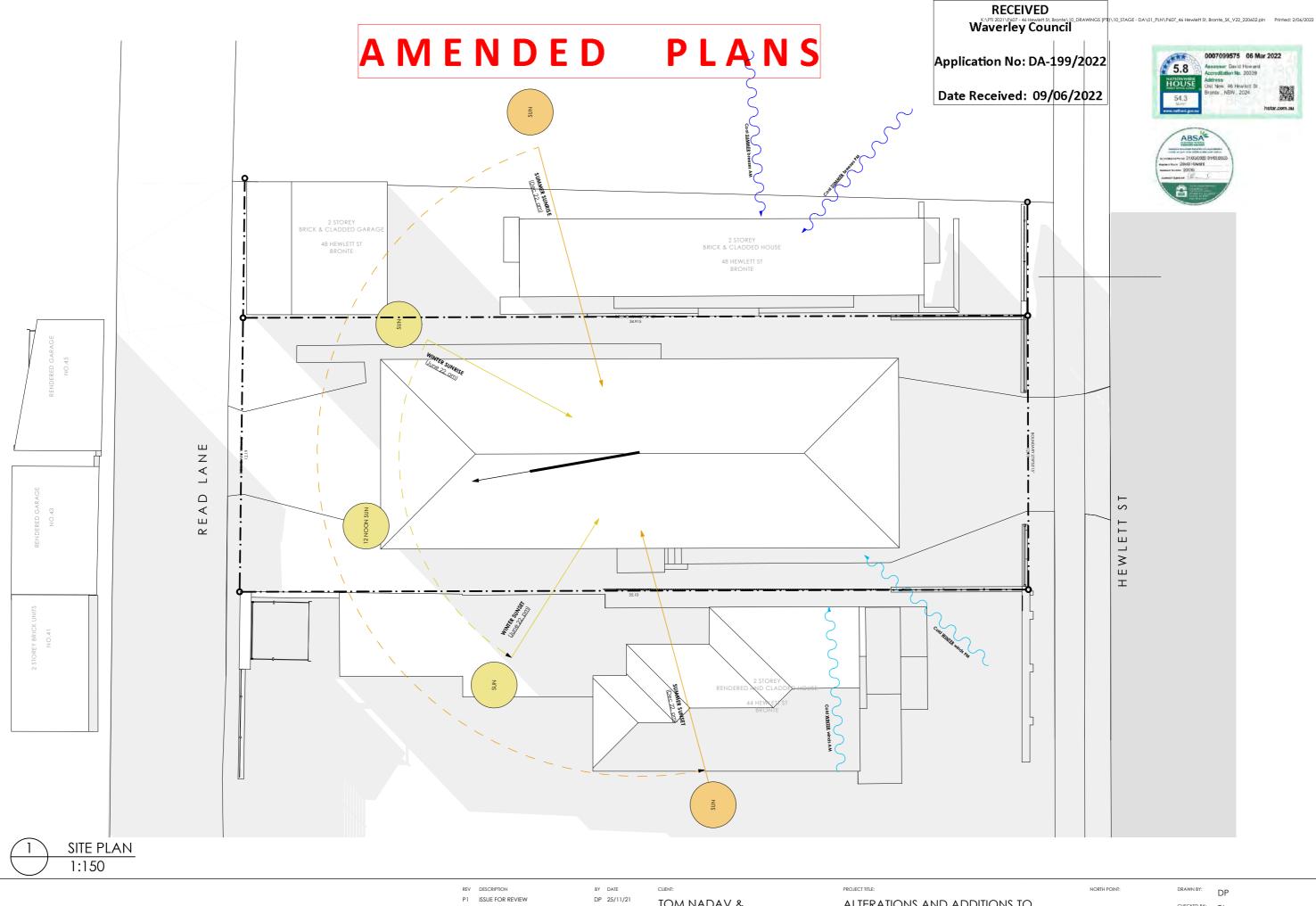


**ALLEN CHAFKIN** 

46 HEWLETT ST, BRONTE

SITE PLAN ANALYSIS

1:6000 AT A3





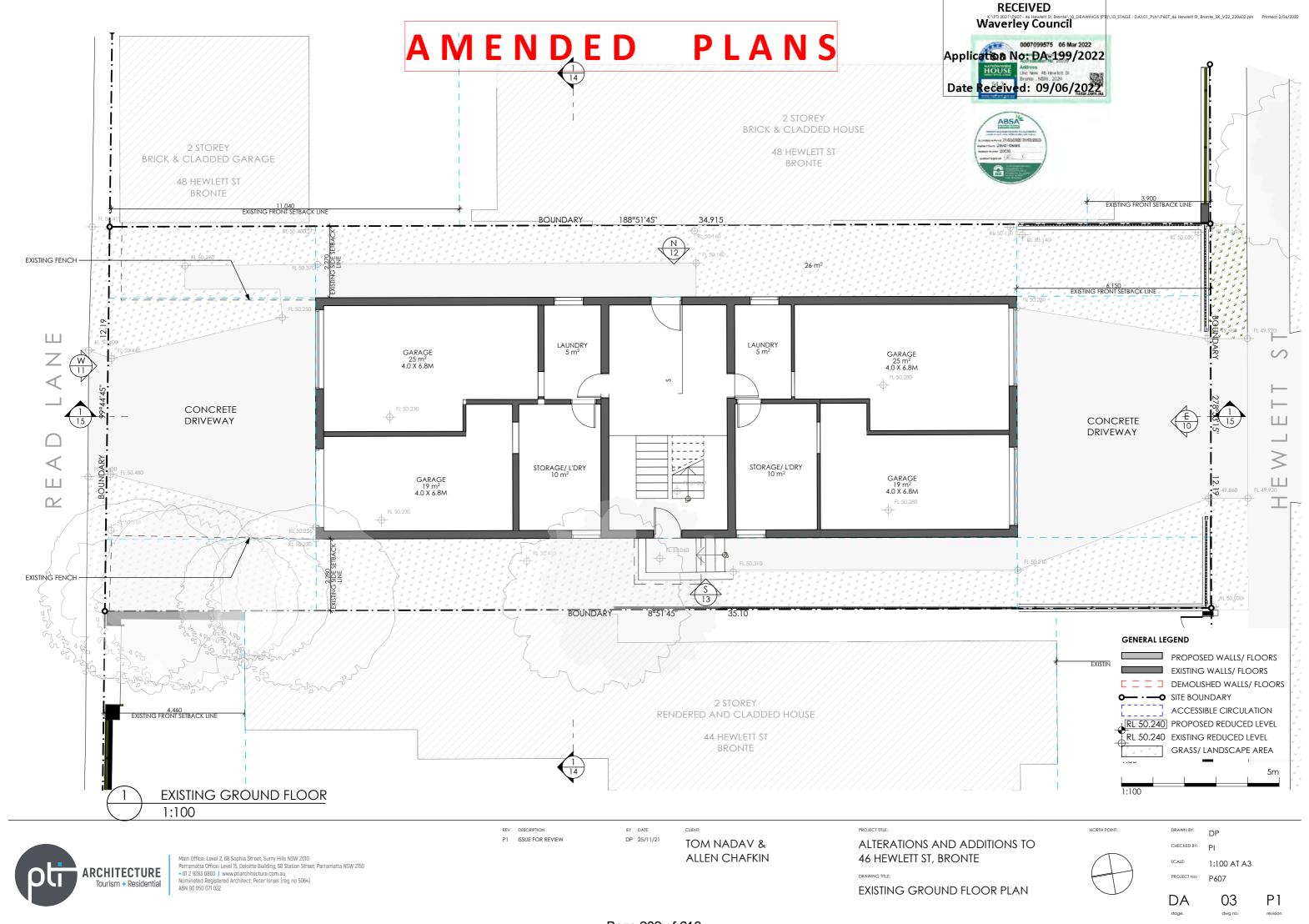
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+ 61 2 9283 0860 | www.ptiarchitecture.com.au
Nominated Registered Architect: Peter Israel (reg no 5064)

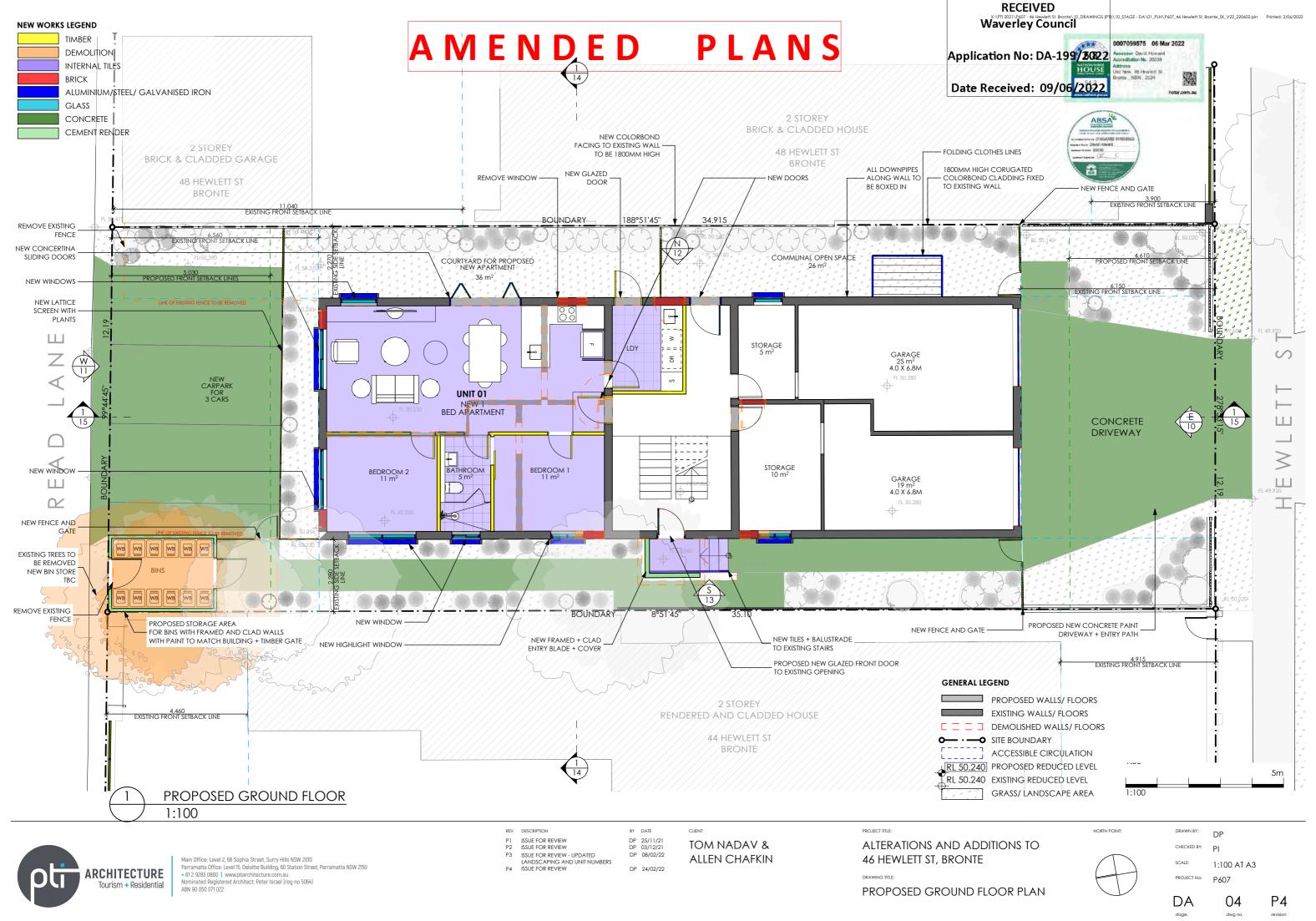
TOM NADAV & **ALLEN CHAFKIN**  ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE SITE PLAN

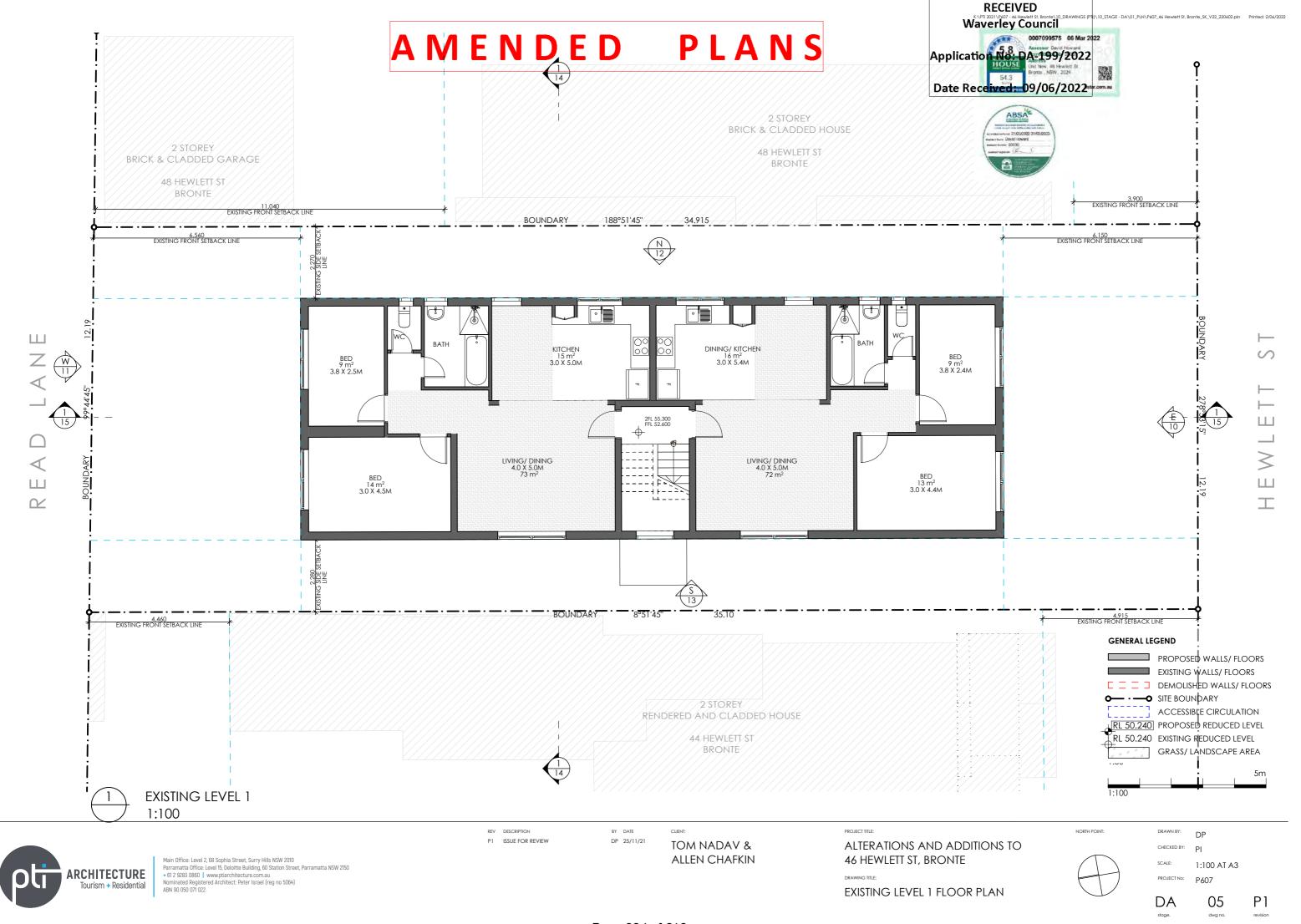
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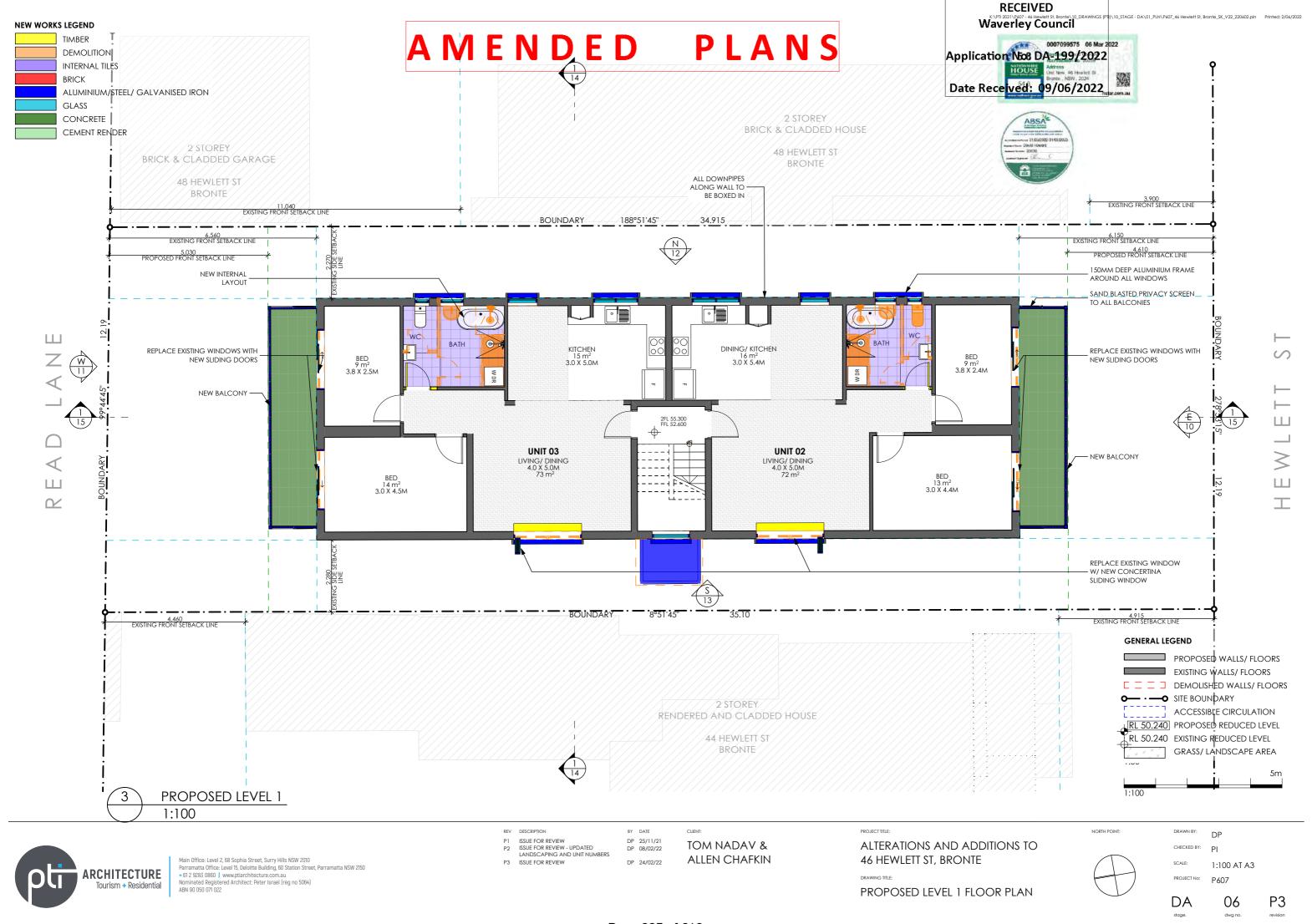
AT A3

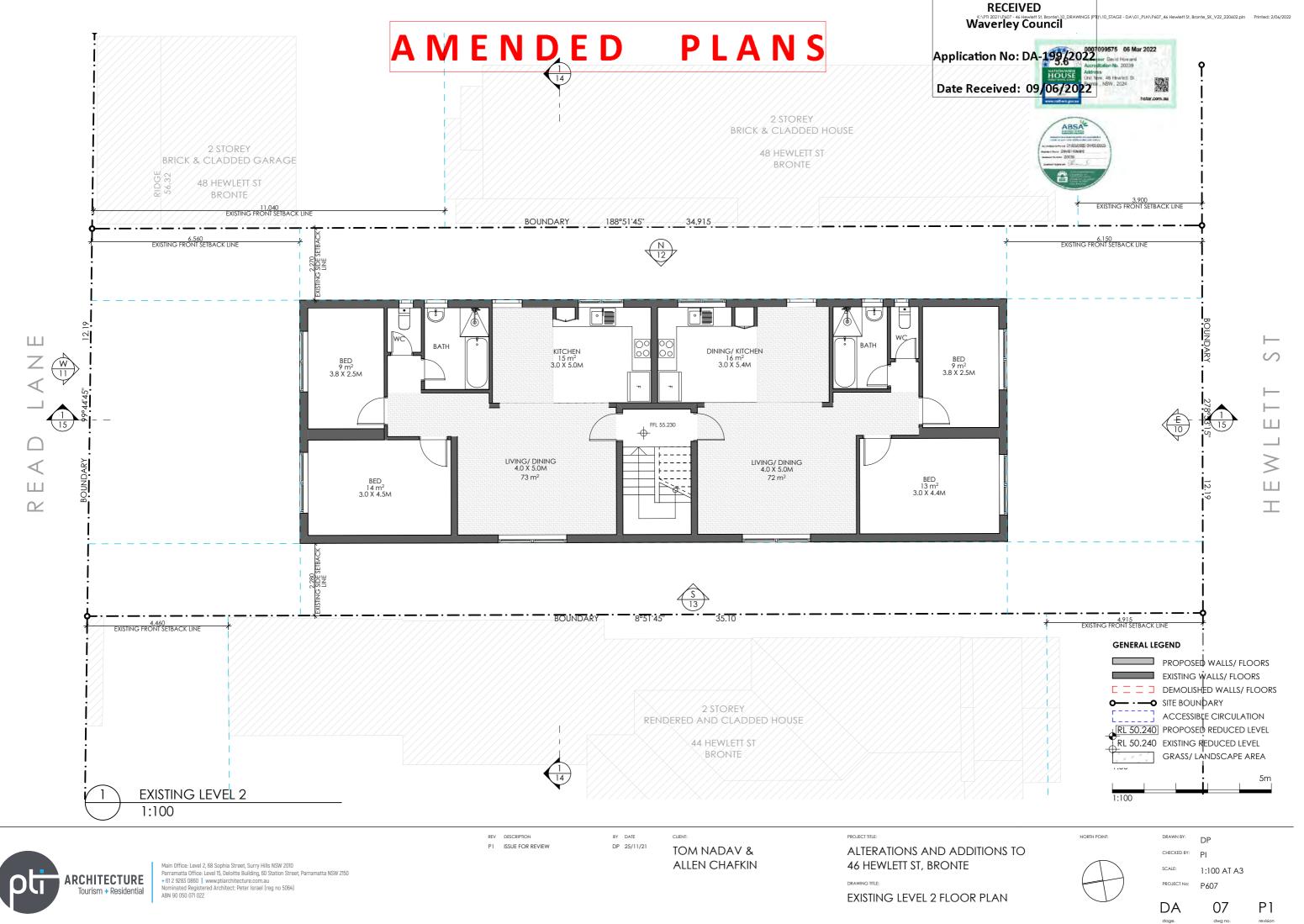
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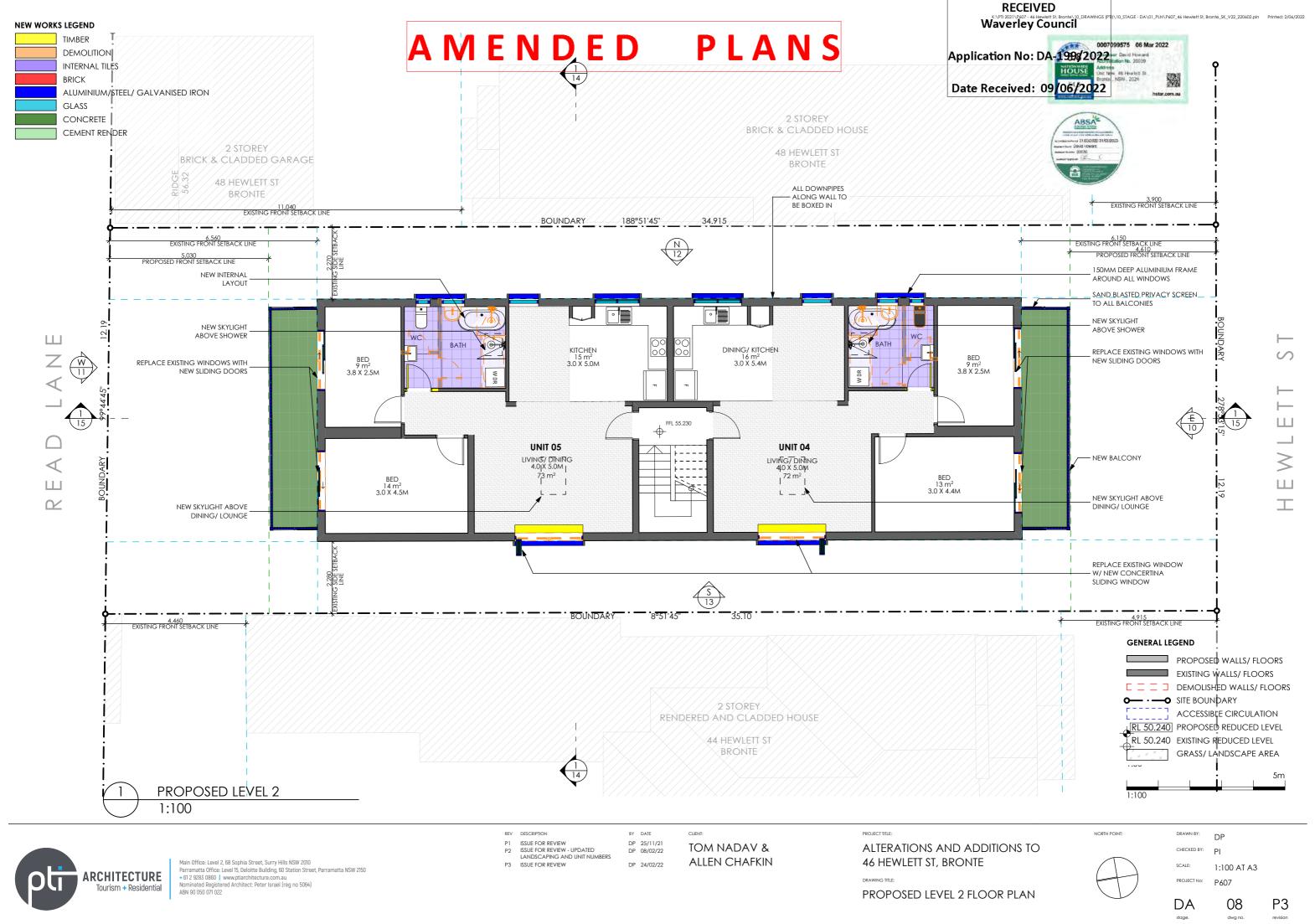


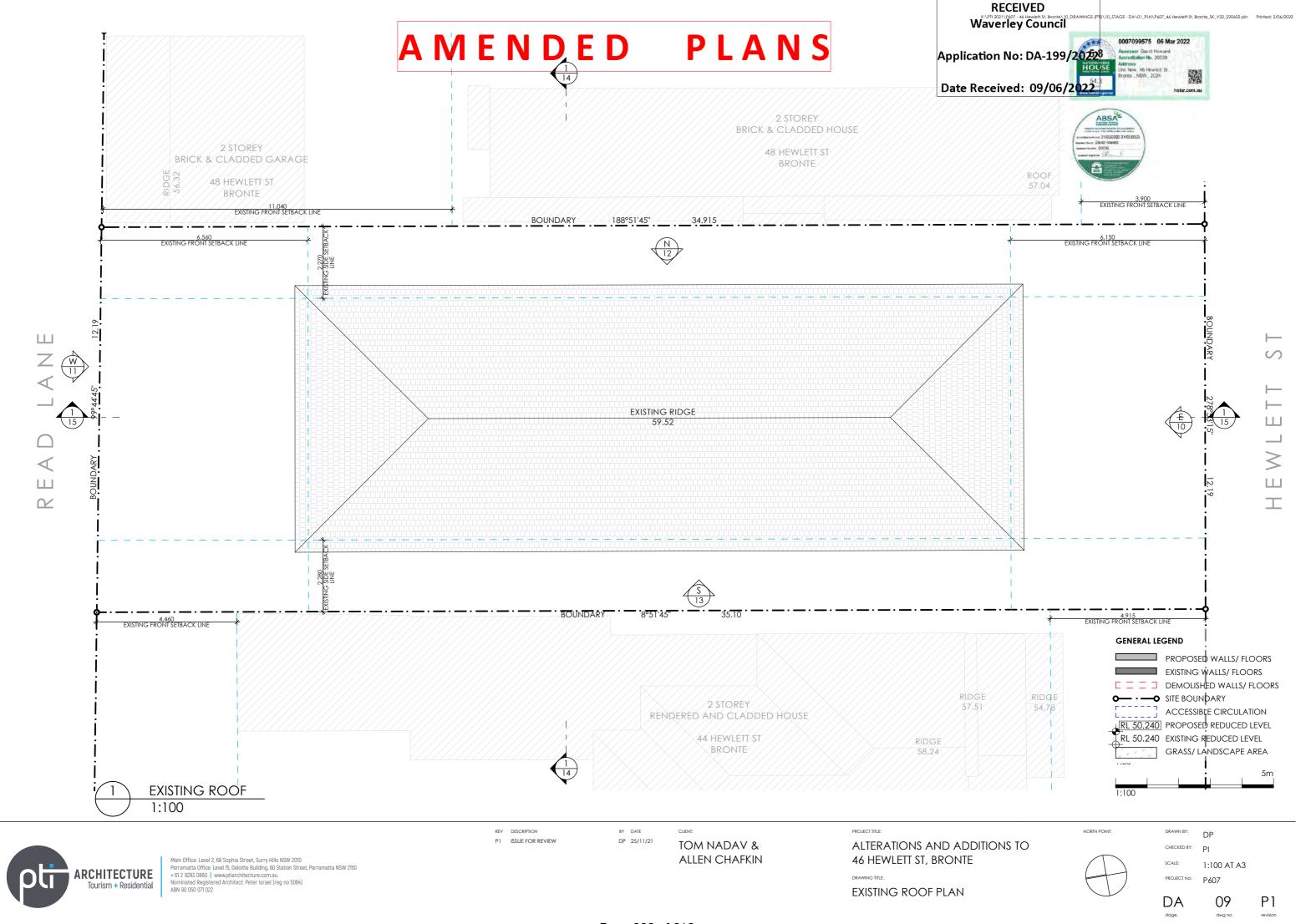


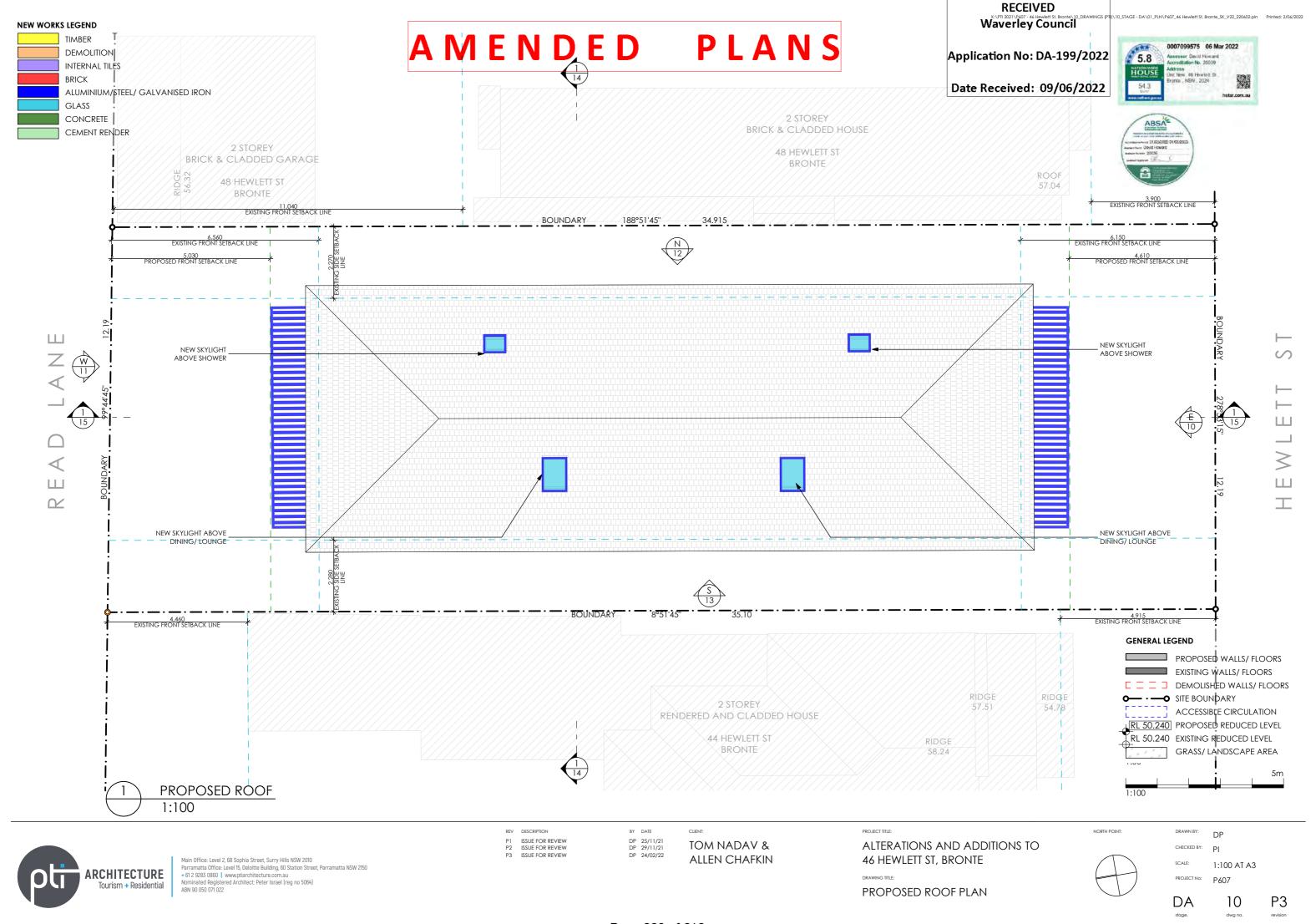


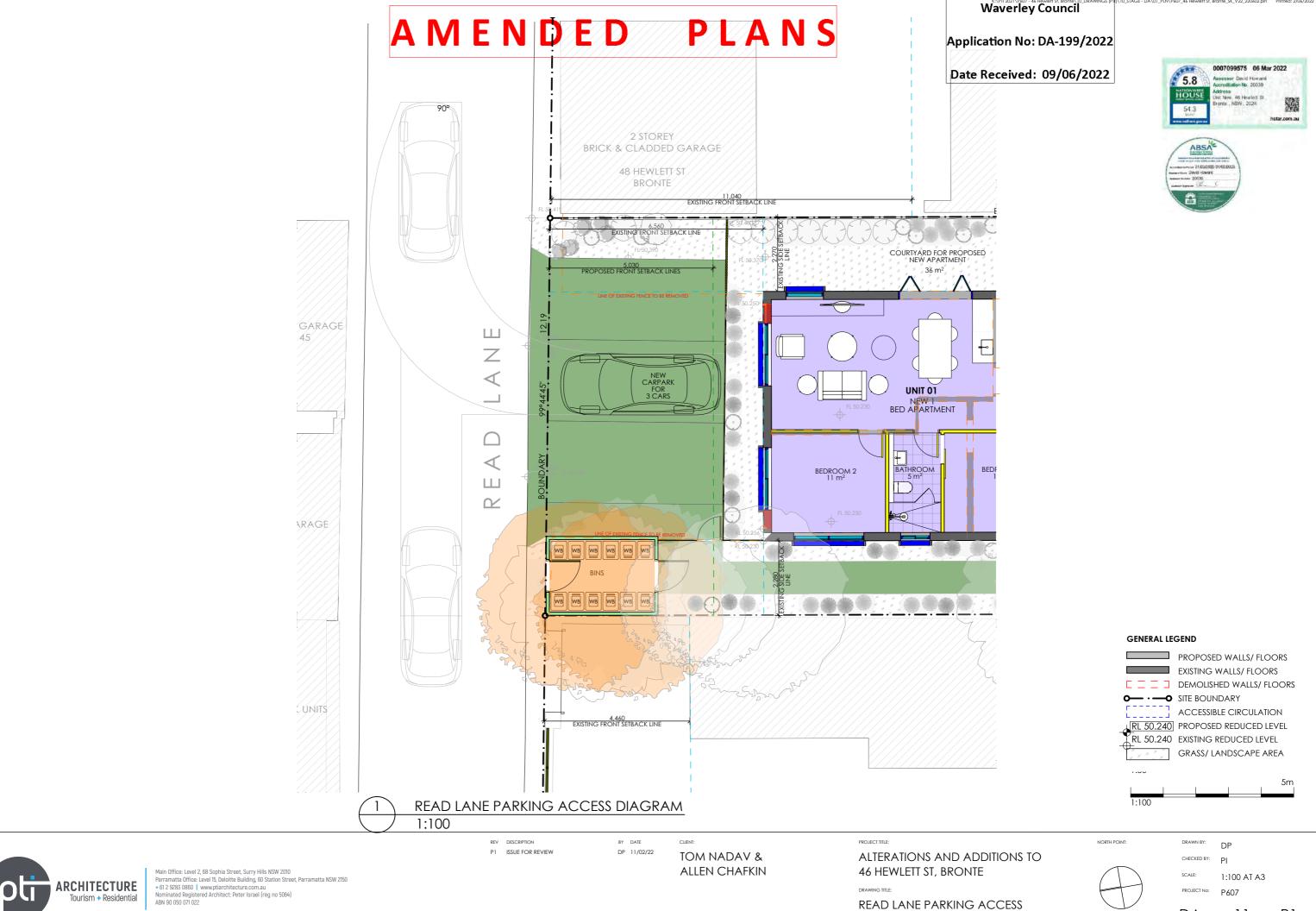














DIAGRAM



**RECEIVED** 

DA

Ρ1

#### **RECEIVED ABREVIATIONS** Waverley Council AMENDED PLANS FIXED SLIDING ROOF Application No: DA-199/2022 RL 59.520 AW AWNING FO FOLDING 8.5m LEP BUILDING HEIGHT LINE Date Received: 09/06/202 1. MONUMENT RENDER 0007099575 06 Mar 2022 5.8 2 STOREY BRICK RENDERED & CLADDED HOUSE LEVEL 2 48 HEWLETT ST RL 55.230 2. BLACK POWDERCOATED ALUMINIUM FRAMED BALUSTRADE & GARAGE ENDERED AND CLADDED HOUSE **DOORS** 44 HEWLETT ST LEVEL 1 BRONTE RL 52.600 **GROUND FLOOR** RL 50.240 HEWLETT ST EAST ELEVATION - EXISTING 3. BLACK POWDERCOATED ALUMINIUM 1:100 WINDOW & DOOR FRAMES RIDGE 59.520 ROOF RL 59.520 TOW 58.776 NEW SKYLIGHT ABOVE NEW SKYLIGHT ABOVE BATH 8.5m LEP BUILDING HEIGHT LINE **NEW WORKS LEGEND** TIMBER ALUMINIUM DEMOLITION FRAME AROUND ALL INTERNAL TILES WINDOWS **BRICK** 2 STOREY 4. 150MM DEEP ALUMINIUM FRAME BRICK RENDERED & ALUMINIUM/STEEL/ GALVANISED IRON FOR WINDOWS - DULUX ZEUS BLACK CLADDED HOUSE LEVEL 2 MATT POWDER COAT OR SIMILAR GLASS 48 HEWLETT ST RL 55.230 CONCRETE NEW SLIDING DOORS TO LEVEL 1 AND 2 BEDROOMS CEMENT RENDER NEW BALCONY TO LEVEL 1 AND 2 2 STOREY ENDERED AND CLADDED HOUSE 44 HEWLETT ST LEVEL 1 RL 52.600 5. SAND BLASTED PRIVACY SCREENS **GROUND FLOOR** EXISTING GROUND LINE RL 50.240 HEWLETT ST **EAST ELEVATION - PROPOSED**



1:100

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REV DESCRIPTION P1 ISSUE FOR REVIEW P2 ISSUE FOR REVIEW P3 ISSUE FOR REVIEW

P4 ISSUE FOR REVIEW

BY DATE DP 25/11/21 DP 29/11/21 DP 28/02/22

TOM NADAV & **ALLEN CHAFKIN** 

ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

EAST EXTERIOR ELEVATIONS (SHEET 1)



DP CHECKED BY:

SCALE: 1:100 AT A3

DA

Page 211 of 618

## **ABREVIATIONS**

- FIXED
- SLIDING
- AW AWNING
- FO FOLDING

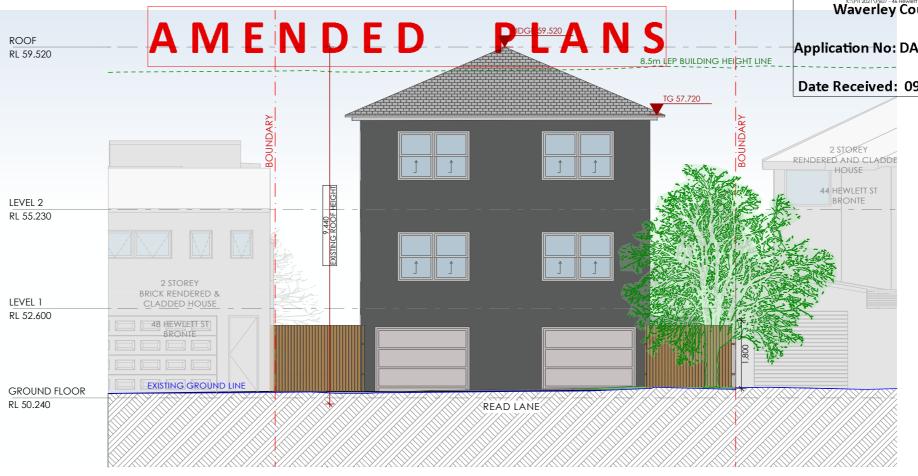








WEST ELEVATION - PROPOSED



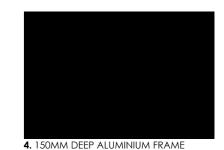




2. BLACK POWDERCOATED ALUMINIUM FRAMED BALUSTRADE & GARAGE



3. BLACK POWDERCOATED ALUMINIUM WINDOW & DOOR FRAMES



FOR WINDOWS - DULUX ZEUS BLACK MATT POWDER COAT OR SIMILAR



5. SAND BLASTED PRIVACY SCREENS





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ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

WEST EXTERIOR ELEVATIONS (SHEET 2)



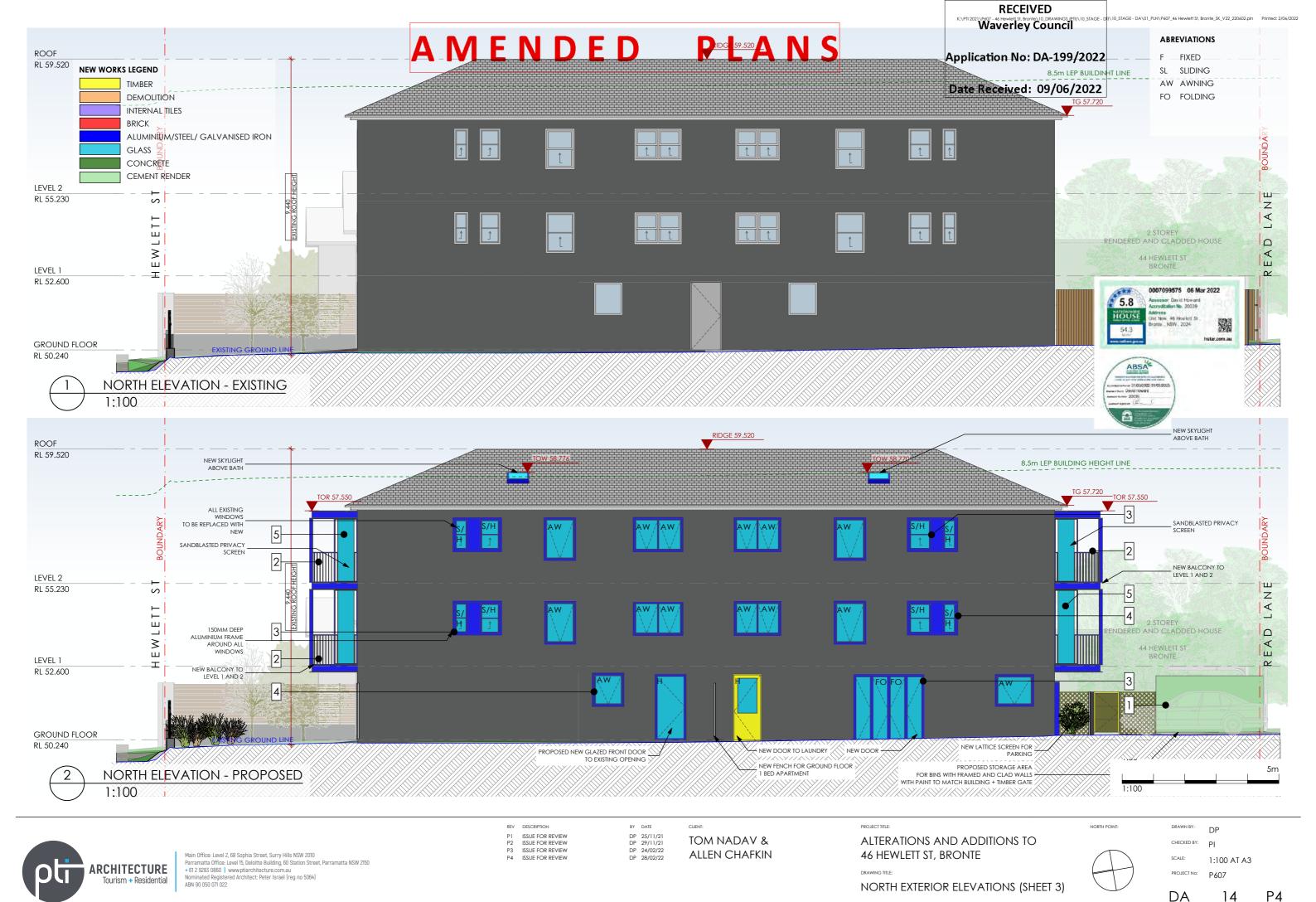
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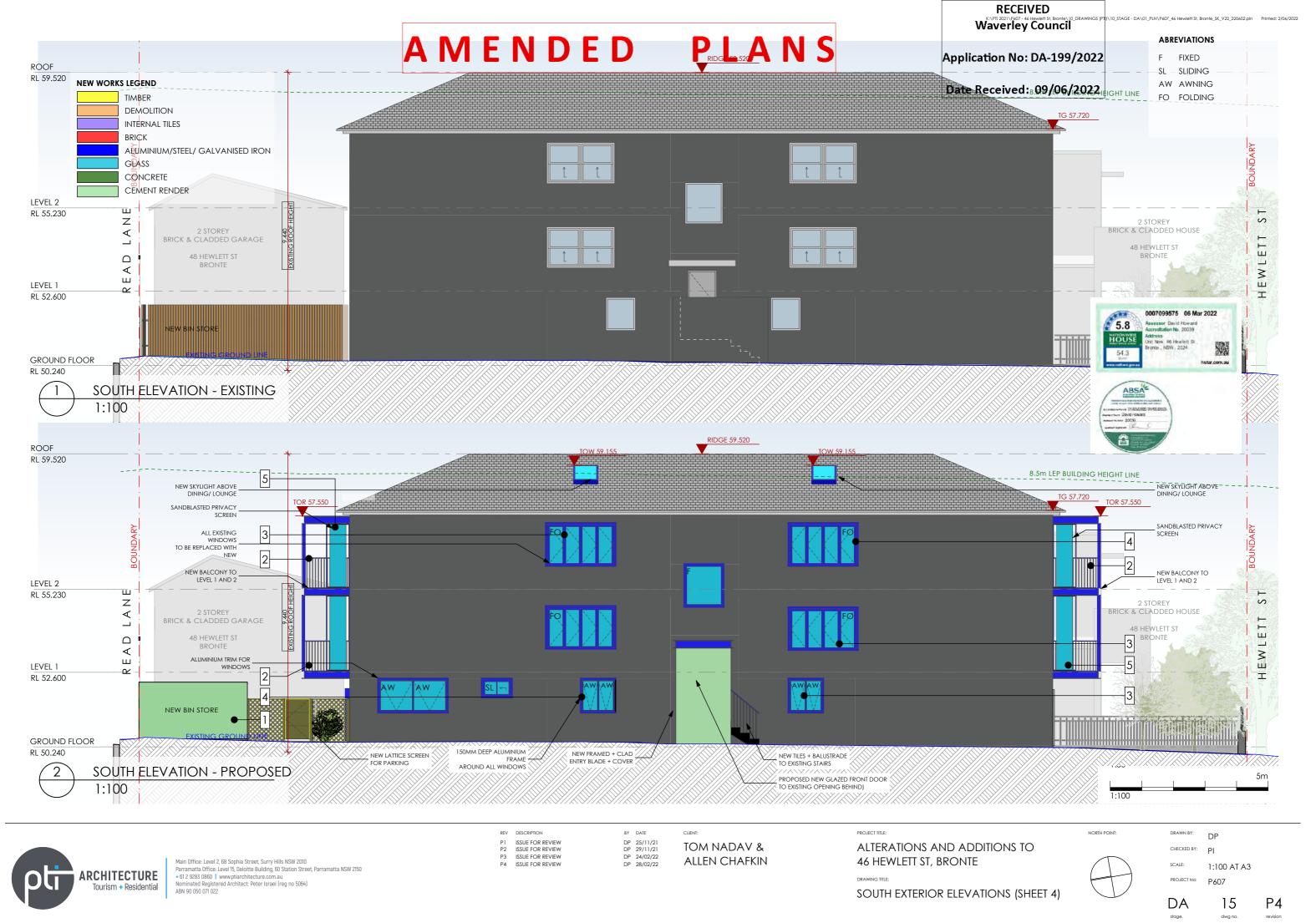
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13

DA

P4





# NEW WORKS LEGEND TIMBER DEMOLITION A MENDED PLANS

Application No: DA-199/2022

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K:\PTI 2021\P607 - 46 Hewlett St, Bronte\10
Waverley Council

Date Received: 09/06/2022

NEW WORKS LEGEND

TIMBER

DEMOLITION

INTERNAL TILES

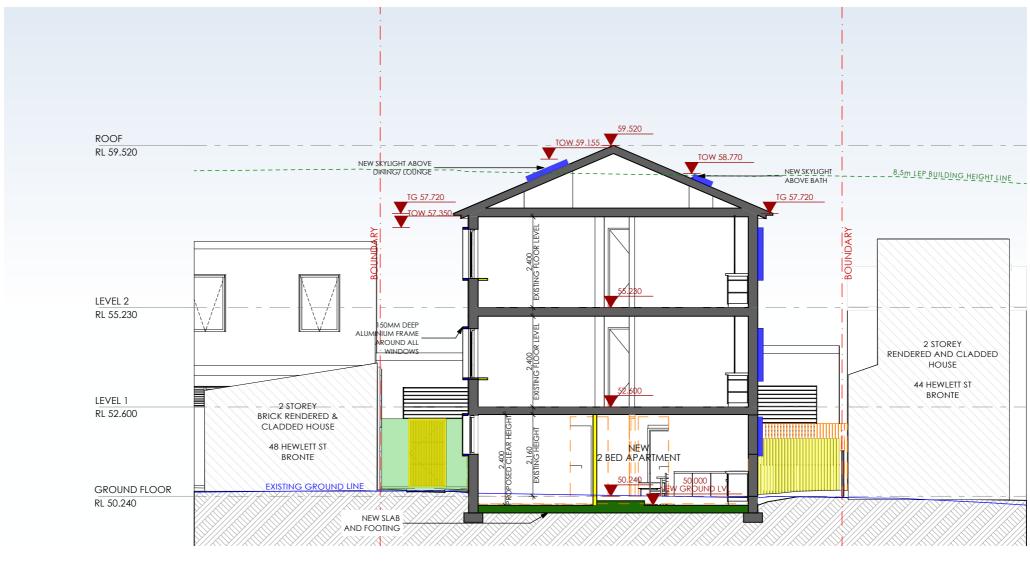
BRICK

ALUMINIUM/STEEL/ GALVANISED IRON

GLASS

CONCRETE

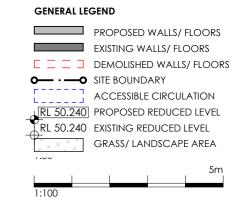
CEMENT RENDER







SECTION A





REV DESCRIPTION

P1 ISSUE FOR REVIEW

P2 ISSUE FOR REVIEW

P3 ISSUE FOR REVIEW

BY DATE

DP 25/11/21

DP 29/11/21

DP 24/02/22

TOM NADAV & ALLEN CHAFKIN

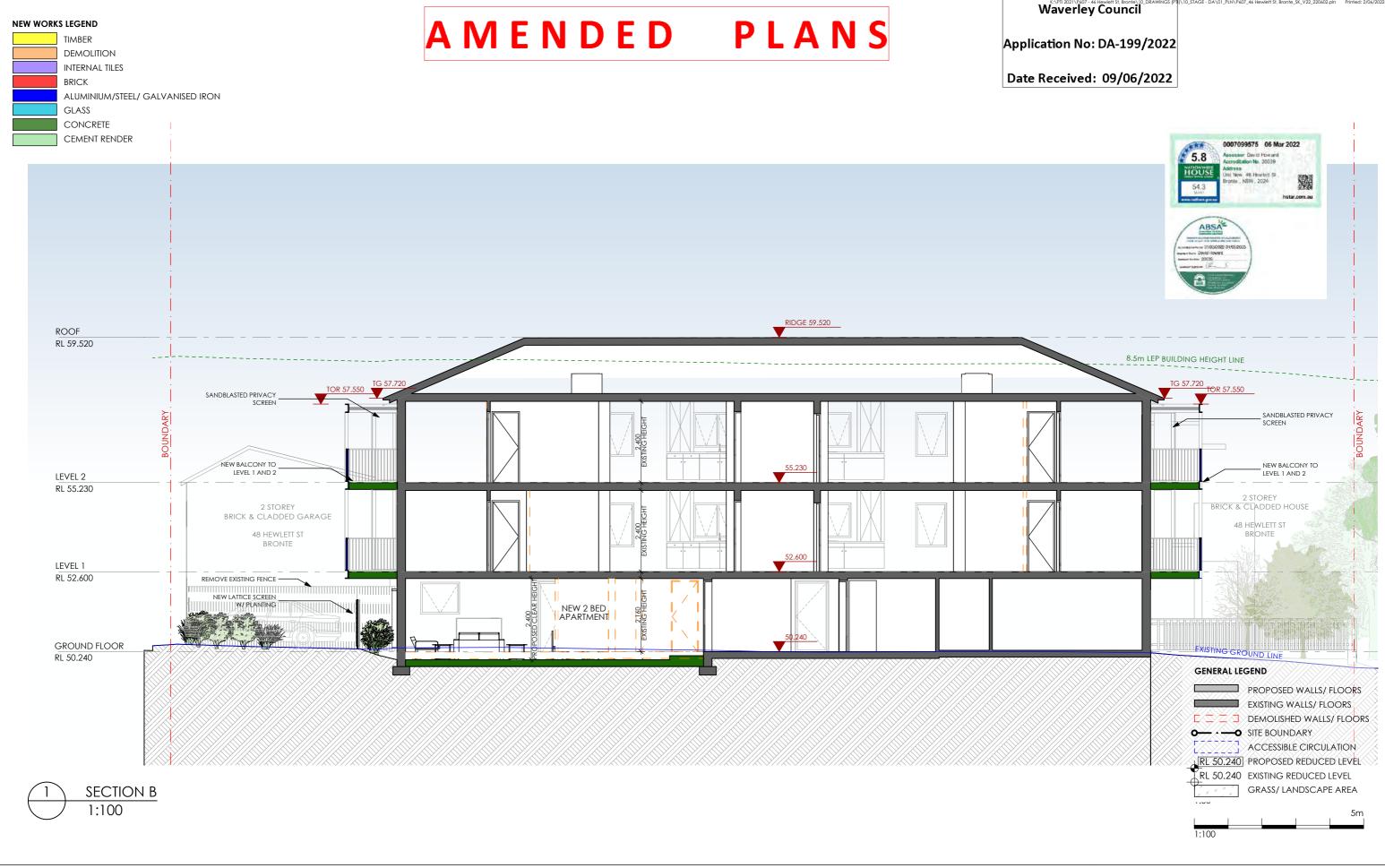
ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

SECTION A



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SCALE: 1:100 AT A3
PROJECT No: P607

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Nominated Registered Architect: Peter Israel (reg no 5064)

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P3 ISSUE FOR REVIEW

BY DATE

DP 25/11/21

DP 29/11/21

DP 24/02/22

TOM NADAV & ALLEN CHAFKIN ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

SECTION B

**RECEIVED** 



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SCALE: AT A3
PROJECT NO: P607

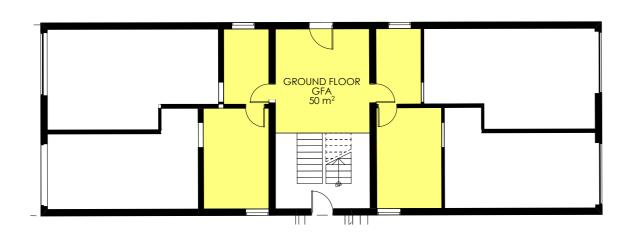
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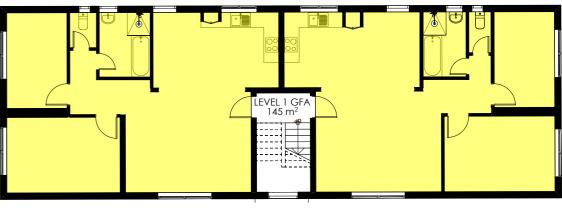
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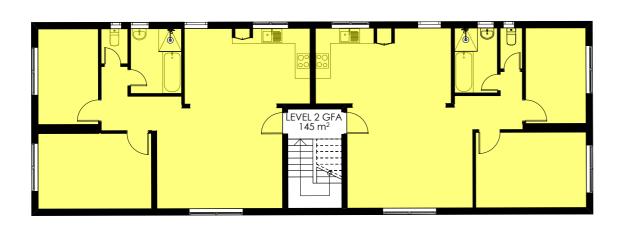
Application No: DA-199/2022

Date Received: 09/06/2022





LEVEL 1 GFA 1:150





RESIDENTIAL	TOTAL
50	50
145	145
145	145
340	340
	50 145 145

EXISTING GFA CALCULATION (sqm)

A-	LEVEL 1	145	Τ
The Recognitional and Associated Section 1997	LEVEL 2	145	T
99			
c 1	GFA (sqm)	340	Τ
	EXISTING FSR CALCU	LATION	

DESCRIPTION		
SITE AREA (sqm)	426.7	
MAX. FSR	0.64:1	271.22 sqm

EXISTING FSR 0.80:1	TOTAL FSR	0.80 : 1	340 sqm
	EXISTING FSR	0.80:1	

#### **GFA & FSR LEGEND**



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DP 25/11/21 DP 23/02/22

TOM NADAV & **ALLEN CHAFKIN**  ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

EXISTING GFA & FSR CALCULATIONS

CHECKED BY: PI 1:150 AT A3

DA

P2



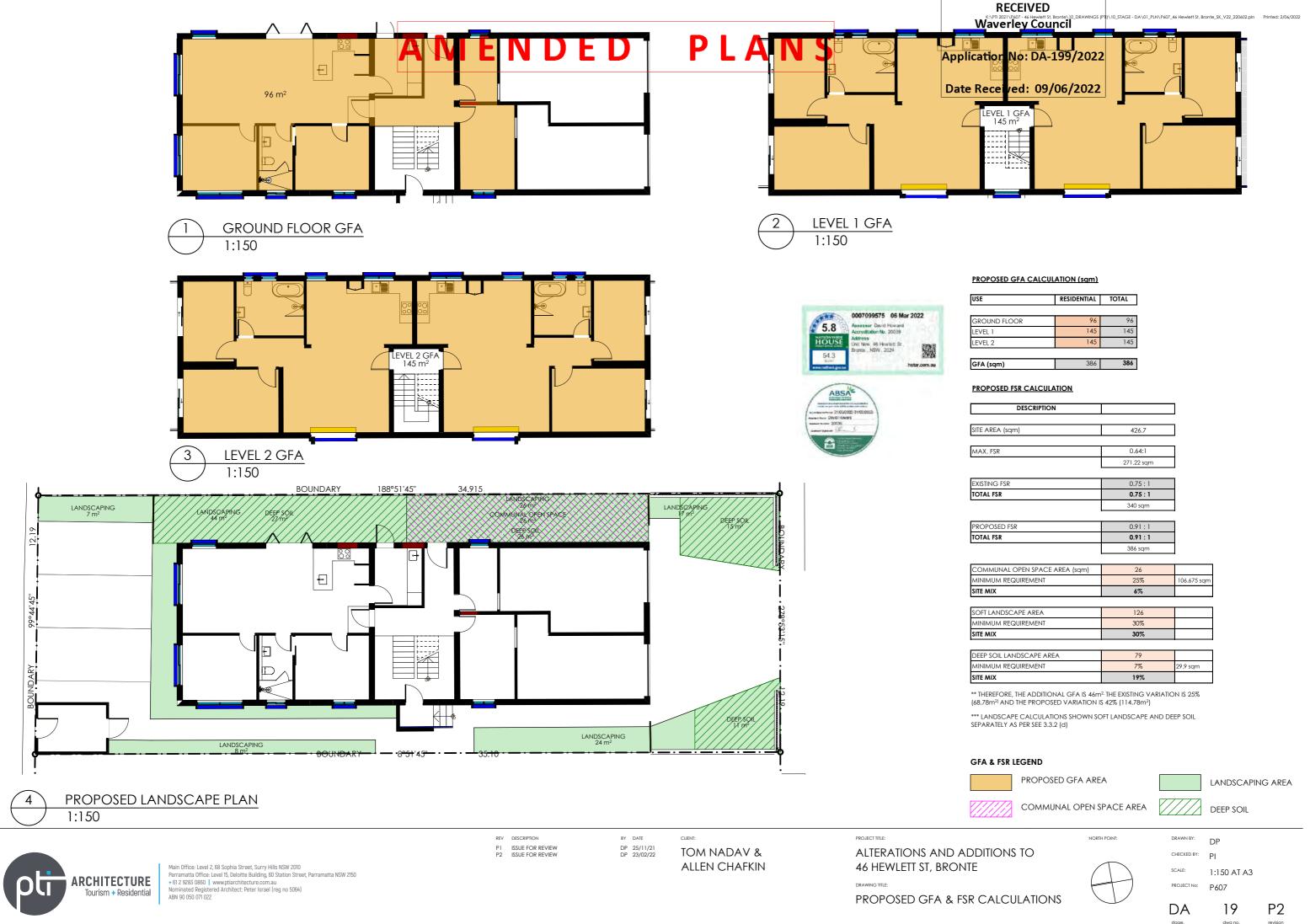
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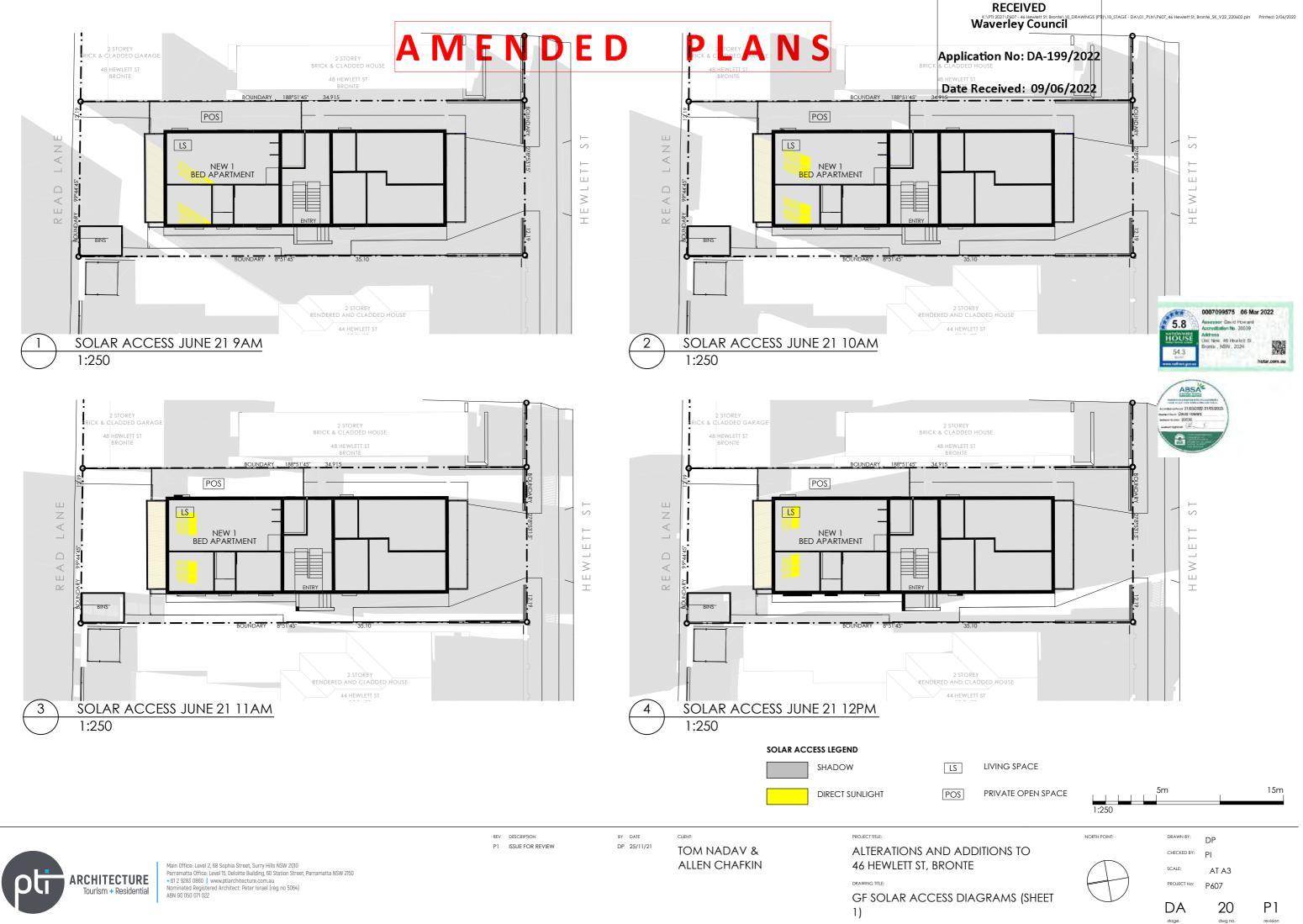
GROUND FLOOR GFA

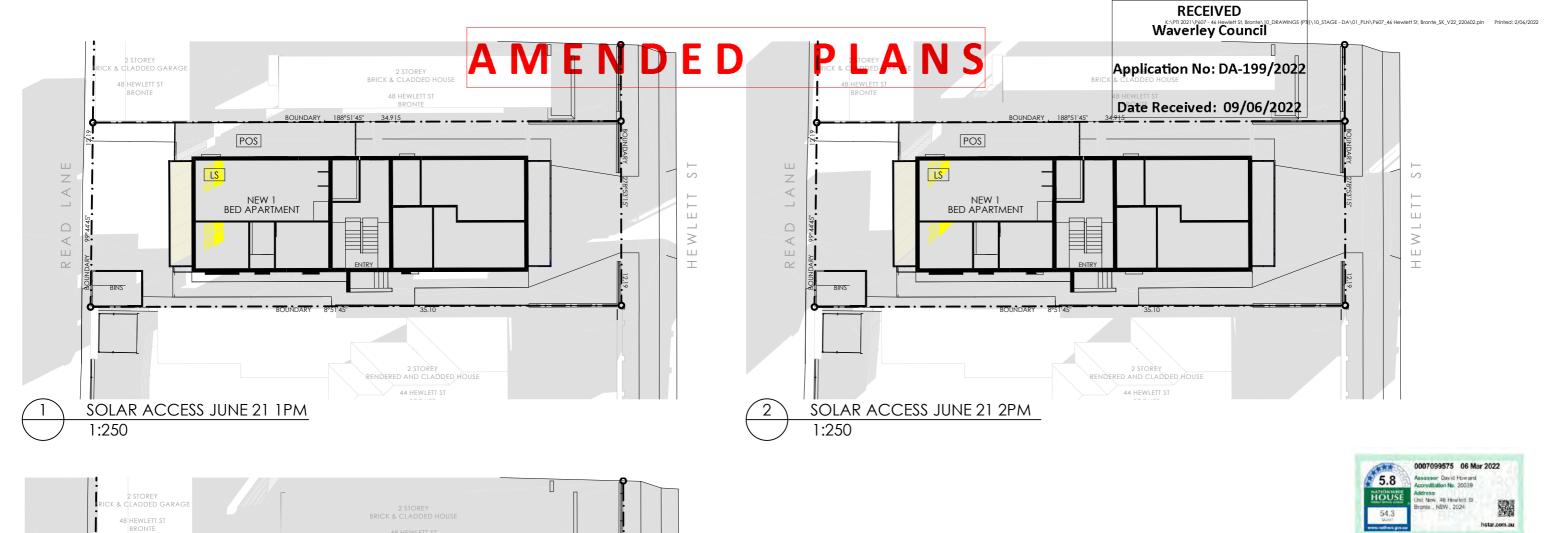
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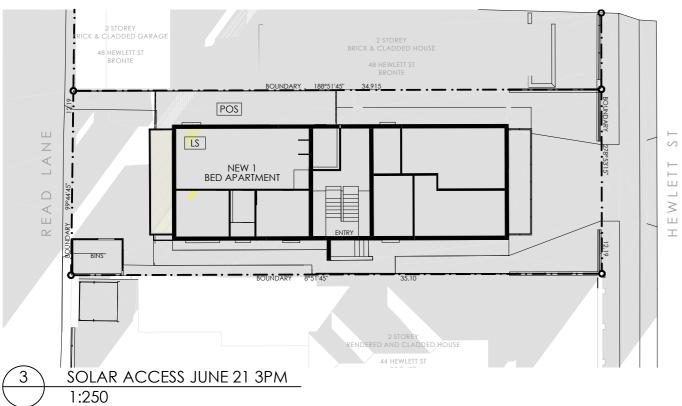
LEVEL 2 GFA

1:150



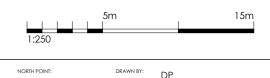














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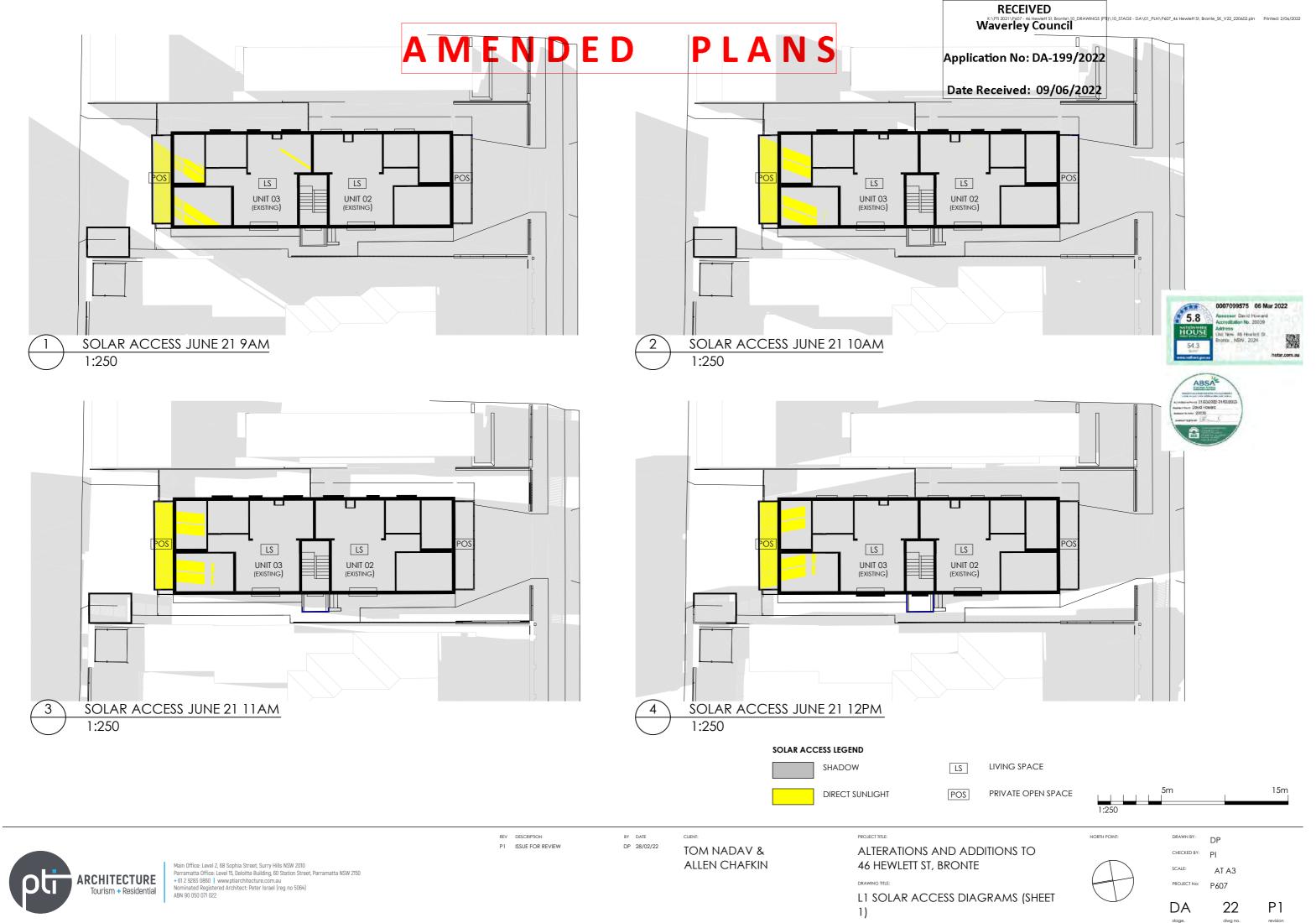
TOM NADAV & **ALLEN CHAFKIN**  ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

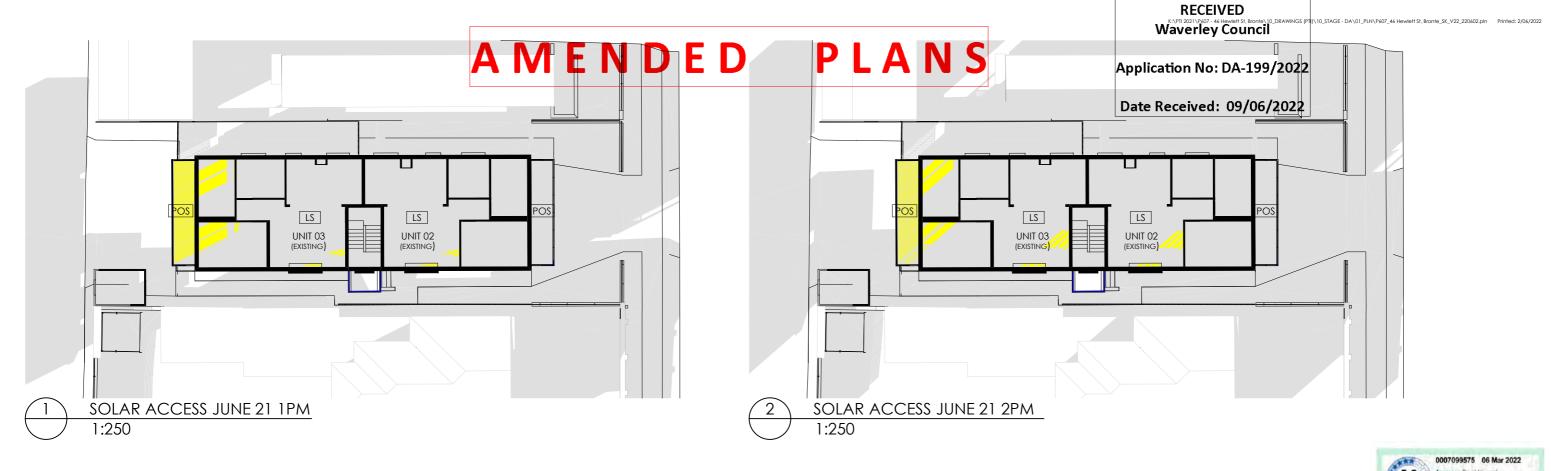
GF SOLAR ACCESS DIAGRAMS (SHEET 2)

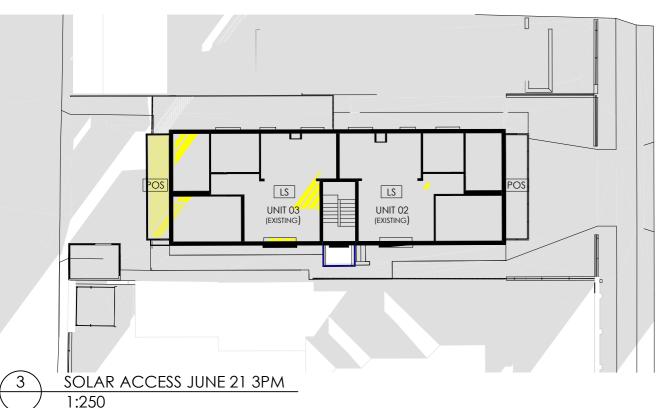


DP CHECKED BY: AT A3 P607 21 DA

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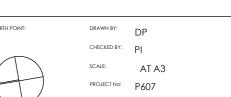








PRIVATE OPEN SPACE POS DIRECT SUNLIGHT



ARCHITECTURE Tourism + Residential

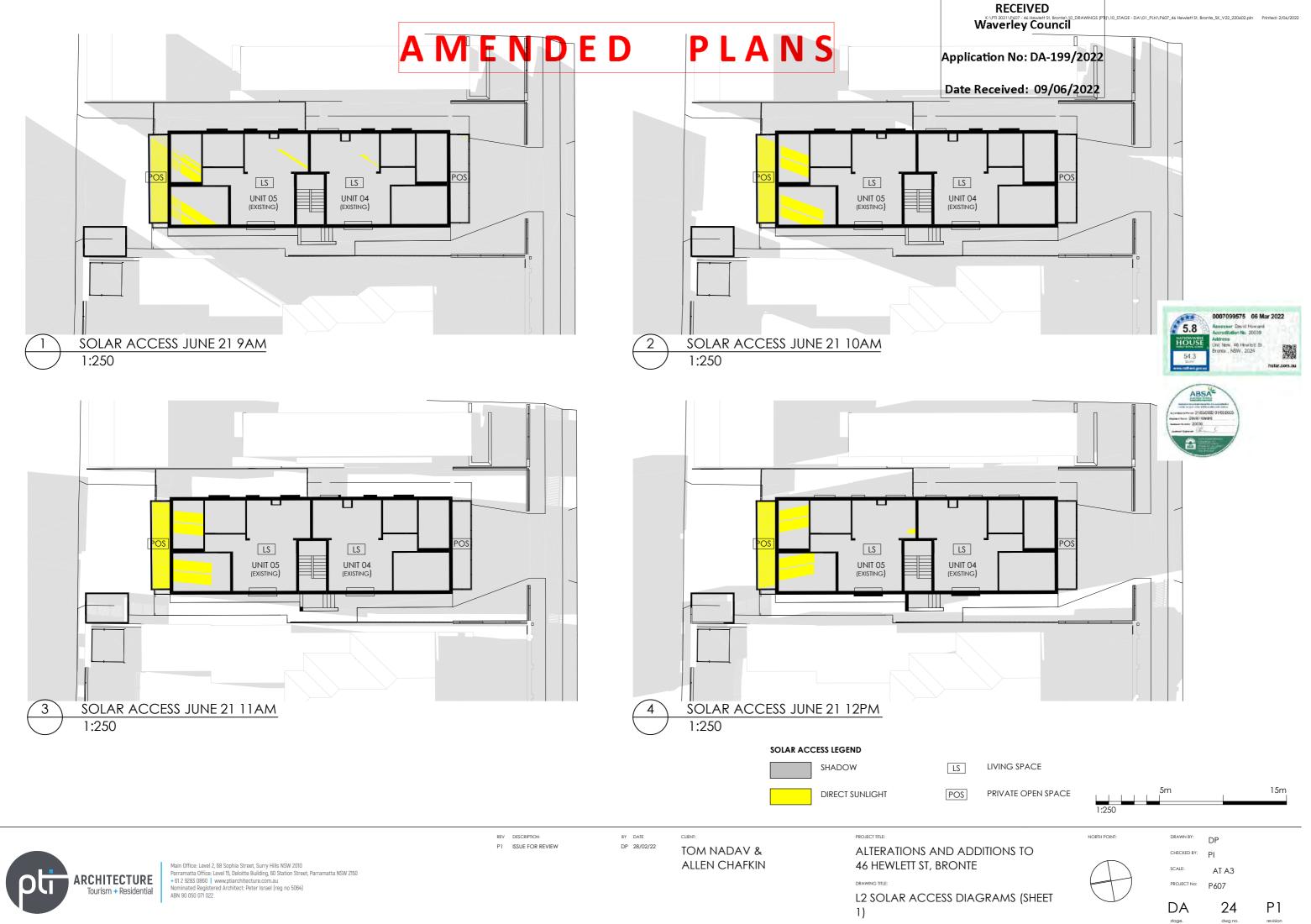
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+ 61 2 9283 0860 | www.ptiarchitecture.com.au
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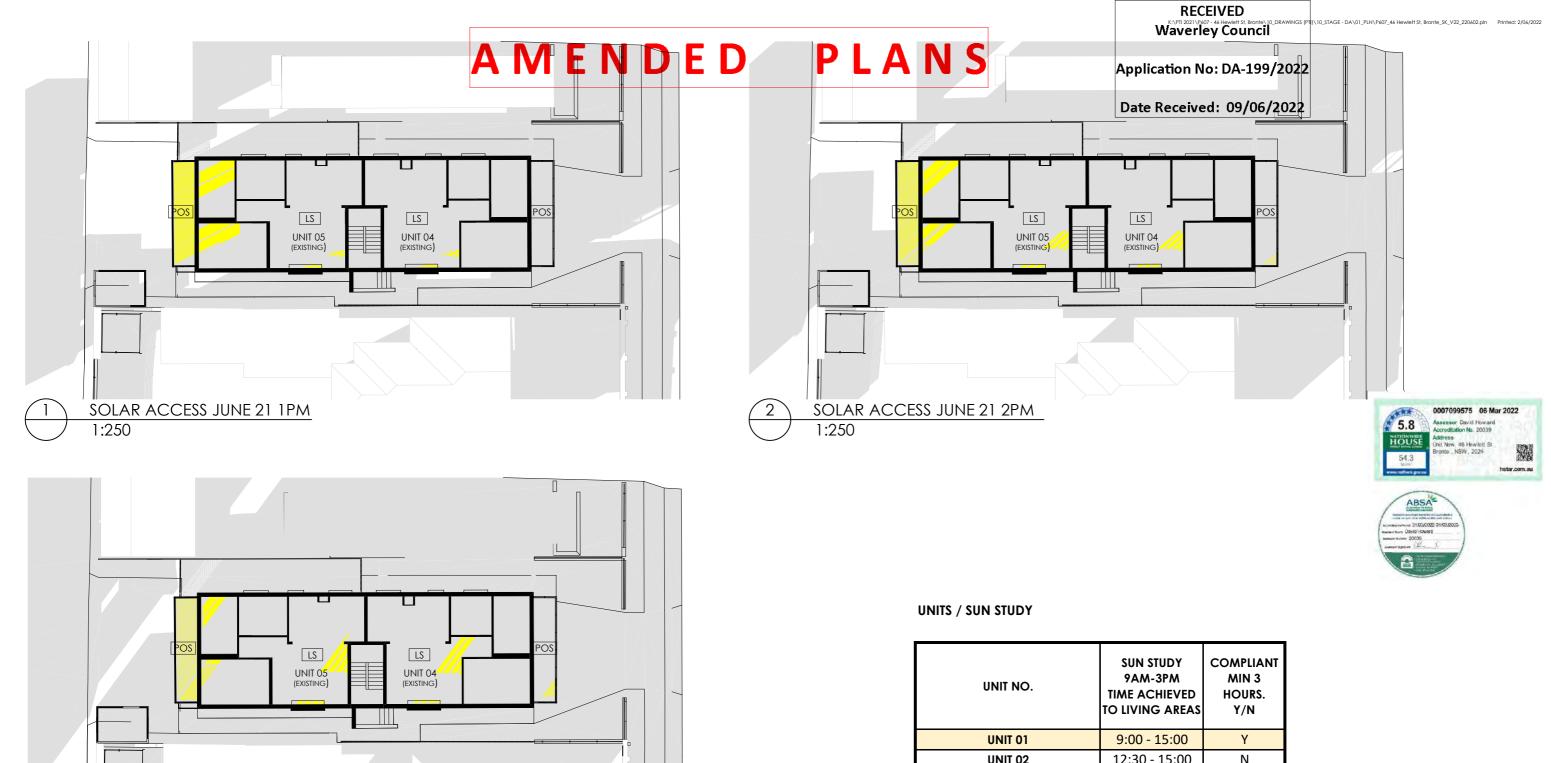
REV DESCRIPTION P1 ISSUE FOR REVIEW DP 28/02/22

TOM NADAV & **ALLEN CHAFKIN** 

ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

L1 SOLAR ACCESS DIAGRAMS (SHEET 2)





UNIT NO.	SUN STUDY 9AM-3PM TIME ACHIEVED TO LIVING AREAS	COMPLIANT MIN 3 HOURS. Y/N
UNIT 01	9:00 - 15:00	Υ
UNIT 02	12:30 - 15:00	N
UNIT 03	12:30 - 15:00	N
UNIT 04	12:30 - 15:00	N
UNIT 05	12:30 - 15:00	N

### SOLAR ACCESS LEGEND LIVING SPACE SHADOW LS PRIVATE OPEN SPACE POS DIRECT SUNLIGHT



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Nominated Registered Architect: Peter Israel (reg no 5064)

SOLAR ACCESS JUNE 21 3PM

REV DESCRIPTION P1 ISSUE FOR REVIEW DP 28/02/22

TOM NADAV & **ALLEN CHAFKIN**  ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

L2 SOLAR ACCESS DIAGRAMS (SHEET 2)



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Waverley Council

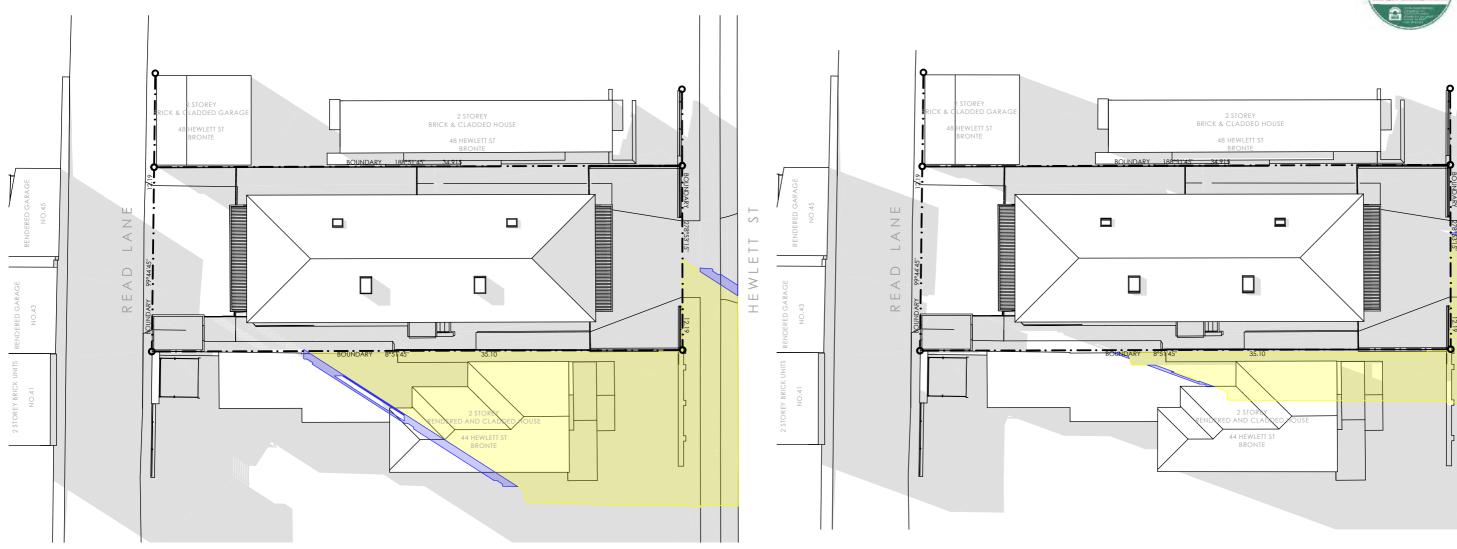
Printed: 2/06/2022

Application No: DA-199/2022

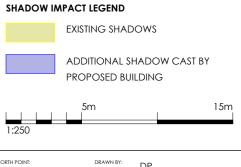
Date Received: 09/06/2022







1 SHADOW DIAGRAM JUNE 21 9AM 1:250 SHADOW DIAGRAM JUNE 21 10AM 1:250





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P1 ISSUE FOR REVIEW

BY DATE DP 24/02/22

TOM NADAV & ALLEN CHAFKIN

ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

SHADOW DIAGRAMS (SHEET 1)

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SCALE: AT A3

PROJECT No: P607

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26 dwg no.

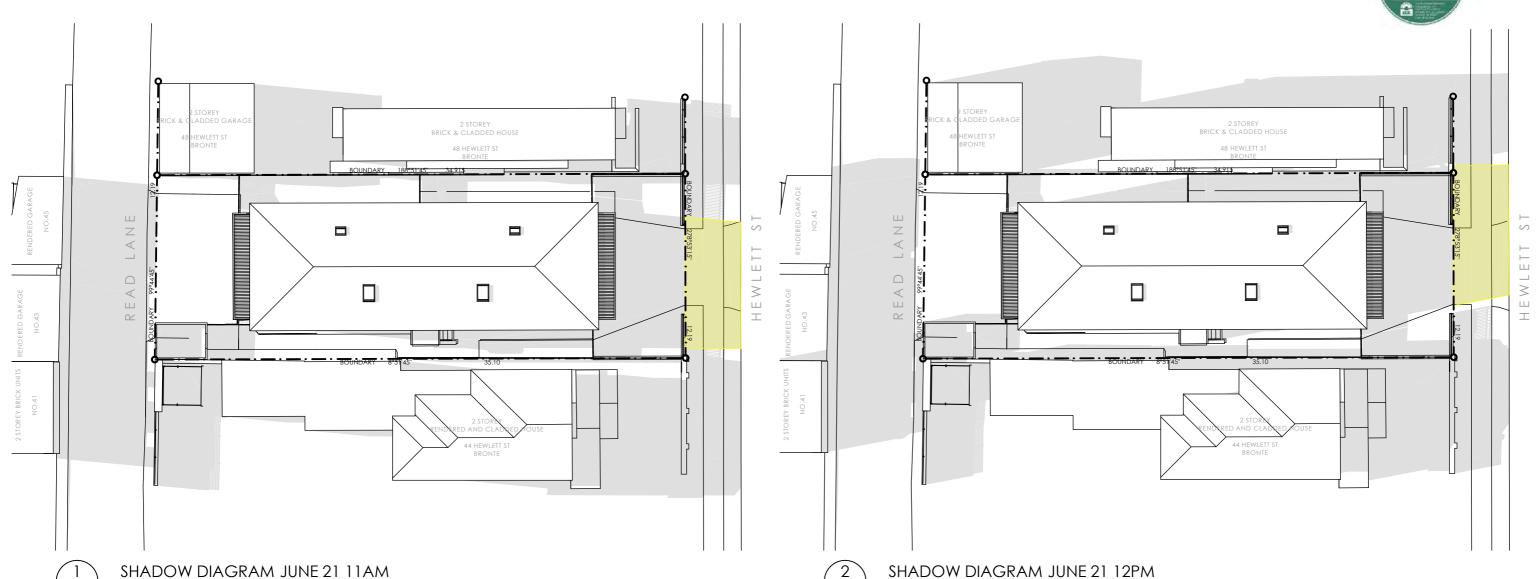
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Application No: DA-199/2022

Date Received: 09/06/2022

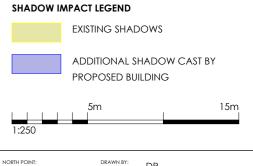






SHADOW DIAGRAM JUNE 21 11AM 1:250

SHADOW DIAGRAM JUNE 21 12PM 1:250





REV DESCRIPTION P1 ISSUE FOR REVIEW

DP 24/02/22

TOM NADAV & **ALLEN CHAFKIN**  ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

SHADOW DIAGRAMS (SHEET 2)

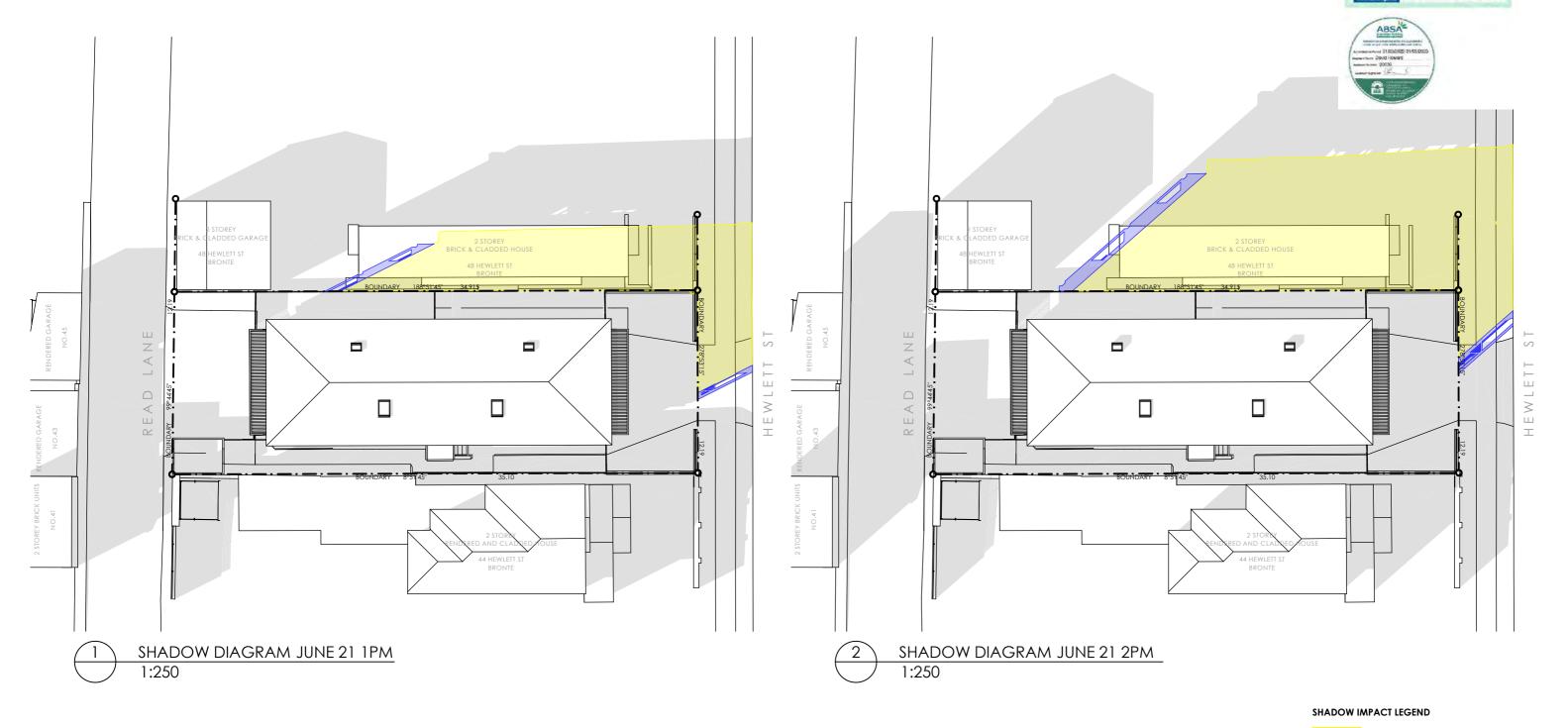


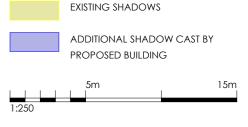
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Nominated Registered Architect: Peter Israel (reg no 5064)

**RECEIVED** Waverley Council Application No: DA-199/2022 5.8 Date Received: 09/06/2022







REV DESCRIPTION P1 ISSUE FOR REVIEW

DP 24/02/22

TOM NADAV & **ALLEN CHAFKIN**  ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

SHADOW DIAGRAMS (SHEET 3)

CHECKED BY: AT A3 DA

RECEIVED

K-VPII 2021 V P 607 - 46 Hewlett St. Bronte \ 10.

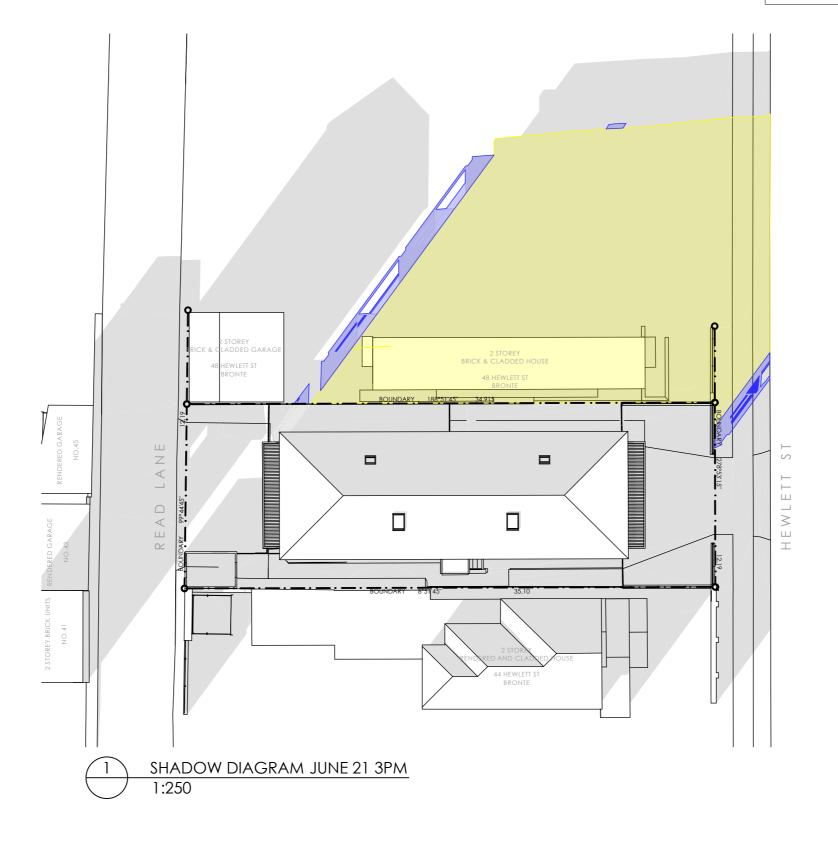
Waverley Council

Application No: DA-199/2022

Date Received: 09/06/2022







SHADOW IMPACT LEGEND

EXISTING SHADOWS

ADDITIONAL SHADOW CAST BY PROPOSED BUILDING





DRAWN BY:

CHECKED BY:

SCALE:

PROJECT No:

PROJECT No: P607

DA 29

AT A3

ARCHITECTURE
Tourism + Residential

REV DESCRIPTION
P1 ISSUE FOR REVIEW

BY DATE
DP 24/02/22

TOM NADAV & ALLEN CHAFKIN

ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

SHADOW DIAGRAMS (SHEET 4)

VIEW FROM HEWLETT ST NOT TO SCALE



VIEW FROM HEWLETT ST NOT TO SCALE

> REV DESCRIPTION P1 ISSUE FOR REVIEW

DP 24/02/22

TOM NADAV & **ALLEN CHAFKIN**  ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

3D VIEWS (HEWLETT ST)



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VIEW FROM HEWLETT ST NOT TO SCALE



VIEW FROM HEWLETT ST NOT TO SCALE

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AT A3

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Application No: DA-199/2022 Date Received: 09/06/2022 SEE II

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VIEW FROM READ LANE NOT TO SCALE



VIEW FROM READ LANE NOT TO SCALE

VIEW FROM READ LANE NOT TO SCALE



VIEW FROM READ LANE NOT TO SCALE

REV DESCRIPTION P1 ISSUE FOR REVIEW

DP 24/02/22

TOM NADAV & **ALLEN CHAFKIN** 

ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

3D VIEWS (READ LANE)

CHECKED BY:

AT A3

ARCHITECTURE

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Nominated Registered Architect: Peter Israel (reg no 5064)

L.G.A. WAVERLEY

## AMENDE DE SURVEPLA

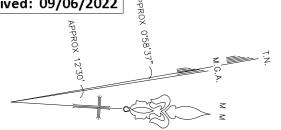
SHOWING SELECTED LEVELS & DETAIL AND BOUNDARY IDENTIFICATION SURVEY OVER SP 74275 BEING No.46 HEWLETT STREET, BRONTE.

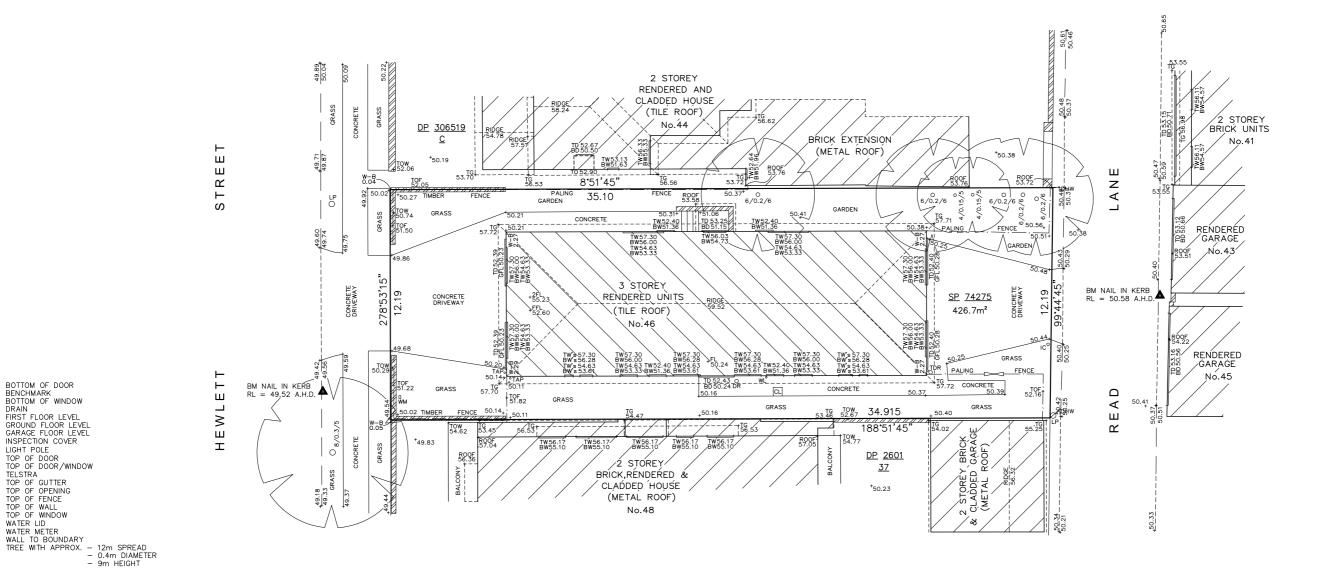
> DATUM: A.H.D. 0 1 2 3 4 5 PLOT SCALE 1: 100 ON A1 SHEET

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Application No: DA-199/2022

Date Received: 09/06/2022





#### NOTES:

W-B 12/0.4/9

LEGEND:

BOTTOM OF DOOR BENCHMARK BOTTOM OF WINDOW

DRAIN
FIRST FLOOR LEVEL
GROUND FLOOR LEVEL
GARAGE FLOOR LEVEL
INSPECTION COVER
LIGHT POLE

TOP OF DOOR
TOP OF DOOR/WINDOW

BD BM BW DR FFL

FL GFL IC LP TD TDW TEL TG TO TOF TOW TW

- 9m HEIGHT

- 1) ALL DIMENSIONS AND LEVELS SHOULD BE CHECKED ON SITE PRIOR TO DESIGN AND CONSTRUCTION.
  2) THE INFORMATION ON THIS SURVEY IS TO BE USED FOR DA PURPOSES ONLY.
  3) IF THERE IS ANY POINT OR FEATURE i.e.(FLOOR LEVEL, WALL POSITION, ROOF OR RIDGE HEIGHT ETC)
  CRITICAL TO THE PREPARATION OF DESIGN PLANS OR CONSTRUCTION, THAT POINT OR FEATURE
  SHOULD BE MADE KNOWN TO US SO IT'S ACCURACY CAN BE CONFIRMED PRIOR TO THE COMPIETION
  OF DESIGN PLANS OF COMMENCEMENT OF CONSTRUCTION.
  4) SOME STRUCTURES AND FEATURES ARE APPROXIMATE ONLY. IF USED FOR DESIGN CONFIRMATION
  OF ACCURACY SHOULD BE CONFIRMED.
  5) FENCES ARE APPROXIMATE ONLY UNLESS SPECIFICALLY DIMENSIONED TO BOUNDARY.
  6) SURVEY MARKS MUST BE PLACED PRIOR TO CONSTRUCTION OR ERECTION OF FENCES.
  7) TREE INFORMATION HAS BEEN SURVEYED FROM GROUND LEVEL AND THEREFORE SHOULD BE TREATED
  AS APPROXIMATE ONLY, THE EXTENT OF THE CANOPY IS APPROXIMATE AND DIAGRAMMATIC ONLY.
  B) STAIR RISES, STEPS AND LANDINGS HAVE NOT BEEN INDIVIDUALLY LOCATED AND AND
  DIAGRAMMATIC ONLY.

  9) THE RECORDS OF THE SERVICE PROVIDERS HAVE NOT BEEN INVESTIGATED, ONLY THOSE SERVICES
  THAT ARE VISIBLE AND ACCESSIBLE AT THE DATE OF SURVEY HAVE BEEN SHOWN.

- 9) THE RECORDS OF THE SERVICE PROVIDERS HAVE NOT BEEN INVESTIGATED, ONLY THOSE SERVICES THAT ARE VISIBLE AND ACCESSIBLE AT THE DATE OF SURVEY HAVE BEEN SHOWN. 10) SERVICES SHOWN ARE INDICATIVE ONLY, OTHER SERVICES MAY EXIST THAT ARE NOT SHOWN. THEREFORE FIELD CONFIRMATION SERVICE LOCATORS SHOULD BE OBTAINED TO CONFIRM EXACT POSITION AND DEPTH. 11) SITE AREA SHOWN HAS BEEN CALCULATED BY SURVEY. 12) A SITE AND BOUNDARY SURVEY HAS BEEN CARRIED OUT. 13) ORIGIN OF LEVELS IS SSM 66812, RL = 50.855 A.H.D. 14) BEARINGS ARE ON MGA.



CLIENT: PTI ARCHITECTS DATE OF SURVEY: 08/06/2021 CAD FILE: 63139001A.DWG

REF No. 63139 ISSUE "A"

REGISTERED SURVEYOR: PAUL CECHELLERO (ID No.757) Lee he llem



Hill & Blume Pty Ltd 102 Crown Street Woolloomooloo NSW 2011 Tel (02) 9332 4888 Fax (02) 9331 6422

surveyors@hillandblume.com.au

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### **BASIX** Certificate

Multi Dwelling

Certificate number: 1278759M

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

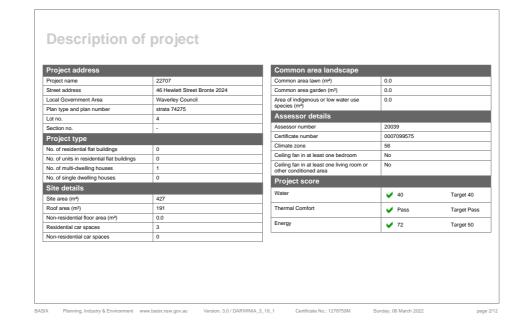
No common areas specified.

Secretary
Date of issue: Sunday, 06 March 2022
To be valid, this certificate must be lodged within 3 months of the date of issue.



Project summary	
Project name	22707
Street address	46 Hewlett Street Bronte 2024
Local Government Area	Waverley Council
Plan type and plan number	strata 74275
Lot no.	4
Section no.	-
No. of residential flat buildings	0
No. of units in residential flat buildings	0
No. of multi-dwelling houses	1
No. of single dwelling houses	0
Project score	
Water	✓ 40 Target 40
Thermal Comfort	✓ Pass Target Pass
Energy	✓ 72 Target 50

Certificate Prepared by
Name / Company Name: Partners Energy Management
ABN (if applicable): 86638119847



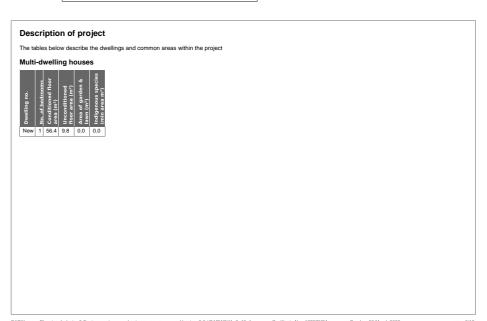
Schedule of BASIX commitments
1. Commitments for multi-dwelling houses (a) Dwellings (i) Water (ii) Energy (iii) Thermal Comfort
2. Commitments for single dwelling houses
Commitments for common areas and central systems/facilities for the development (non-building specific)     (i) Water     (ii) Energy

#### **RECEIVED** Waverley Council

\10\_STAGE - DA\01\_PLN\P607\_46 Hewlett St, Bronte\_SK\_V22\_220602.pln Printed: 2/06/2022

Application No: DA-199/2022

Date Received: 09/06/2022



The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with. BASIX Planning, Industry & Environment www.basix.nsw.gov.au Version: 3.0 / DARWINIA 3 19 1

Schedule of BASIX commitments

Show on DA plans Show on CC/CDC Certifier check (b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling, (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table. (c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it. V (aa) a hot water diversion system to all showers, kitchen sinks and all basins in the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below; and (bb) a separate diversion tank (or tanks) connected to the hot water diversion systems of at least 100 litres. The applicant must connect the hot water diversion tank to all toilets in the dwelling. (e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below. (f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both) (h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that d the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which s any other alternative water supply system), and to divert overflow as specified. Each system must be connected as spec •

ARCHITECTURE Tourism + Residential

REV DESCRIPTION P1 ADDITIONAL INFORMATION FOR COUNCIL

DP 16/05/22

TOM NADAV & **ALLEN CHAFKIN** 

ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

BASIX CERTIFICATE COMMENTS (SHEET 1)



CHECKED BY: SCALE:

AT A3 PROJECT No: P607 DA

33

	Fixtures				Appli	Appliances Individual pool			Individual spa					
Dwelling no.	All shower- heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish- washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	4 star (> 6 but <= 7.5 L/min)	4 star	4 star	4 star	no	-	-	-	-	-	-	-	-	-

		Alternative water source								
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up		
All dwellings	individual water tank (no. 1)	Tank size (min) 1000.0 litres	To collect run-off from at least: 10.0. square metres of roof area; 0.0 square metres of impervious area; 0.0 square metres of garden and lawn area; and 0.0 square metres of planter box area.	yes	yes	yes	no	no		
None	-	-	-	-	-	-	-			

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	~	~	~
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		~	~
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, infor at least 1 living/bedroom area of the dwelling. If no cooling or heating systems is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		~	~

Planning, Industry & Environment	www.basix.nsw.gov.au	Version: 3.0 / DARWINIA_3_19_1	Certificate No.: 1278759M	Sunday, 06 March 2022	page 7/1:

ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifie
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term" dedicated is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		•	•
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skight.	~	~	~
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must:			
(aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and			
(bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.			
(h) The applicant must install in the dwelling:			
<ul><li>(aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances &amp; other efficiency measures" column of the table below;</li></ul>		-	
(bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and		-	-
(cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.		<b>V</b>	
(i) If specified in the table, the applicant must carry out the development so that each refrigerator space in the dwelling is "well ventilated".		~	
(j) The applicant must install the photovoltaic system specified for the dwelling under the "Photovoltaic system" heading of the "Alternative energy" column of the table below, and connect the system to that dwelling's electrical system.	_	V	-

	Hot water	Bathroom ven	tilation system	Kitchen venti	lation system	Laundry vent	llation system
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control
All dwellings	gas instantaneous 6 star	individual fan, not ducted	manual switch on/off	individual fan, not ducted	manual switch on/off	natural ventilation only, or no laundry	

	V		_

iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comind Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.	~		
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.		~	
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		~	~
(g) Where there is an in-slab heating or cooling system, the applicant must:	~	~	~
(aa) Install insulation with an R-value of not less than 1.0 around the vertical edges of the perimeter of the slab; or			
(bb) On a suspended floor, install insulation with an R-value of not less than 1.0 underneath the slab and around the vertical edges of the perimeter of the slab.			
(h) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.	~	~	~

			Thermal le	oads					
Dwelling no.	Area	adjusted heating load (in mJ/m²/yr)	А	Area adjusted cooling	oad (in mJ/m²	/yr)			
All dwellings	28.4		2	5.9					
			Construction of floors and w	valls					
Dwelling no.	Concrete slab on ground	(m²) Suspended floor with open subfloor (m²)	Suspended floor with endclosed subfloor (m²)	Suspended floor garage (m²)	Suspended floor above garage (m²)		earth or		
All dwellings	56		1.	T -		No			

	All dw	ellings	56	-	-	-	No	
Į								
	0.1.011/				D . D	0	0 1 00 11 1 0000	10110

(i) Water					Show on DA plans	Show on CC/CDC plans & specs	Certifie check
(a) If, in carryin item must r	ng out the development, the applic meet the specifications listed for it	ant installs a showerhead, toilet, tap in the table.	or clothes washer into a common a	irea, then tha	1	~	V
(b) The applica "Central sys specified in	stems" column of the table below.	development is serviced by) the alter In each case, the system must be s	emative water supply system(s) spe sized, be configured, and be connec	cified in the ted, as	~	~	~
(c) A swimming table.	g pool or spa listed in the table mu	ust not have a volume (in kLs) greate	er than that specified for the pool or	spa in the	V	~	
(d) A pool or sp	pa listed in the table must have a	cover or shading if specified for the p	pool or spa in the table.			<b>~</b>	
(e) The applica	ant must install each fire sprinkler		~	_			
(f) The applica	(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.						
						<b>V</b>	_
Common area	Showarhaade rating	Tailate rating	Tane rating		lother washer	e rating	_
	Showerheads rating no common facility	Toilets rating no common facility	Taps rating 3 star		clothes washer to common laun	· · · •	
All common areas	- · · · · · · · · · · · · · · · · · ·		1, 1 1			· · · •	Certifie
All common areas  (ii) Energy  (a) If, in carryin	no common facility		3 star	n he table	Show on	dry facility  Show on CC/CDC	
All common areas  (ii) Energy  (a) If, in carryin below, ther specified.  (b) In carrying specified in	no common facility  g out the development, the application that vertilation system must be cout the development, the application that the table below, the lighting special must also install a centralised.	no common facility  ant installs a ventilation system to se	a star  3 star  ervice a common area specified in in area, and must meet the efficiency of artificial lighting* for each common ting must meet the efficiency meas	he table measure	Show on DA plans	dry facility  Show on CC/CDC	

### RECEIVED K:VPT1 2021 V:P607 - 46 Hewlett St. Bronte\_10\_DRAWINGS [PTI]\10\_STAGE - DA\01\_PLN\P607\_46 Hewlett St. Bronte\_SK\_V22\_220602.pin Printed: 2/06/2022 Waverley Council

Application No: DA-199/2022

Date Received: 09/06/2022

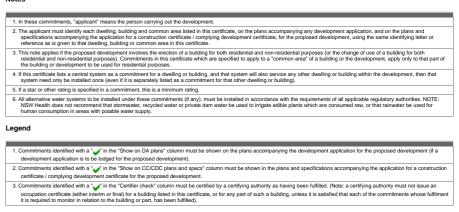
	Cooling		Cooling Heating				Artificial	lighting			Natural lighting	
Dwelling no.	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/ toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitcher
All dwellings	ceiling fans	-	-	-	1 (dedicated)	1 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	1	yes

	Individual pool Individual spa		pa	Appliances & other efficiency measures								
Dwelling no.	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher		dryer	sheltered clothes	Private outdoor or unsheltered clothes drying line
All dwellings	-	-	-	-	gas cooktop & electric oven	•	no	-	-	-	no	no

Dwelling no.	Photovoltaic system (min rated electrical output in peak kW)
All dwellings	1.0

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application or fail and coupstion certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			

and the fact of the contract o	Marrian 2.0 / DADMINIA 2.40.4	Castificate No. 4070750M	Constant OC March 2022	0/40



BASIY Plannin Industry & Environment was hasir new our su. Version: 3.0 / NASWINIA 3.10.1 Certificate Nn - 1978750M Sunday / 06 March 9792 nana



Main Office: Level 2, 68 Sophia Street, Surry Hills NSW 2010
Parramatta Office: Level 15, Deloitte Building, 60 Station Street, Parramatta NSW 2150
+ 61 2 9283 0860 | www.ptiarchitecture.com.au
Nominated Registered Architect: Peter Israel (reg no 5064)

REV DESCRIPTION

P1 ADDITIONAL INFORMATION
FOR COUNCIL

BY DATE DP 16/05/22

TOM NADAV & ALLEN CHAFKIN

ALTERATIONS AND ADDITIONS TO 46 HEWLETT ST, BRONTE

DRAWING TI

BASIX CERTIFICATE COMMENTS (SHEET 2)



DRAWN BY: DP

CHECKED BY: PI

SCALE: AT A3

PROJECT NO: PAO7

PROJECT NO: P607

DA 34

dwg no

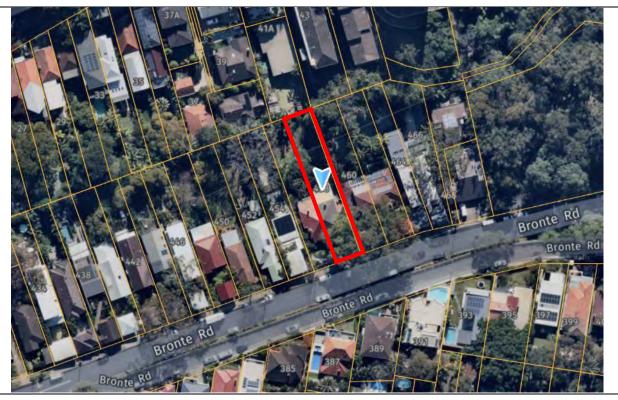




### Report to the Waverley Local Planning Panel

Application number	DA-94/2022		
Site address	458 Bronte Road, Bronte		
Proposal	Alterations and additions to semi-detached dwelling including new 3 storey addition to the rear, construction of a new carport and swimming pool, and landscape works.		
Date of lodgement	21 March 2022		
Owner	Mr A Baud and Ms K Boylan		
Applicant	Mr A Baud		
Submissions	Thirteen (13) submissions (10 to original proposal, 3 to amended proposal)		
Cost of works	\$1,800,502		
Principal Issues	<ul> <li>Building Height</li> <li>Rear building setback</li> <li>Elevated balcony dimensions</li> <li>Excavation to side boundary</li> </ul>		
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.		

#### **SITE MAP**



#### 1. PREAMBLE

#### **Executive Summary**

The development application seeks consent for alterations and additions to the existing semi-detached dwelling including a new 3 storey addition at the rear, construction of a new carport fronting Bronte Road, a swimming pool and decking at the rear and landscape works at the site known as 458 Bronte Road, Bronte.

The principal issues arising from the assessment of the application are as follows:

- Building Height
- Rear building setback
- Elevated balcony dimensions
- Excavation to side boundary

The assessment finds the issues relating to excavation acceptable having regard to the context of similar development immediately surrounding the site and the proposal is unlikely to have any adverse environmental impacts on neighbouring properties, subject to inclusion of standard conditions relating to earthworks in the recommendation.

The proposed rear alterations and additions, particularly at the first floor level, can be made consistent with the built form of surrounding developments, subject to conditions requiring an increase to the first floor rear building line to align with the approved rear first floor building line of the adjoining semi-detached dwelling at 456 Bronte Road. In this regard, it should be noted that the adjoining semi-detached dwelling, at 456 Bronte Road, sought similar scale works (DA-176/2022 approved on 30/09/2022 under staff delegation) and the two DAs have been assessed concurrently to ensure impacts and scale of works are complementary to one another, as well as the surrounding locality.

Design amendments to reduce the proposed built form and size of the first floor rear balcony were sought and amended plans submitted will result in a development that is contained wholly within a compliant building envelope and is consistent with the height of buildings and floor space ratio development standards. As such, the proposal subject to conditions, will not result in any unreasonable environmental impacts on adjoining properties and is acceptable.

A total number of 13 submissions were received (10 to original proposal, 3 to amended proposal) and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

#### Site and Surrounding Locality

A site visit was carried out on 12 April 2022.

The site is identified as Lot 1 in DP104394, known as 458 Bronte Road, Bronte.

The site is located on the northern side of Bronte Road, is rectangular in shape with a frontage to Bronte Road, measuring 9.625m, east and west side boundaries measuring 54.865m and a rear (north) boundary measuring 9.755m. It has an area of 534.9m² and falls from the front (south) boundary to the rear (north) boundary by approximately 11.53m and has a slight fall from west to east along the front boundary of approximately 700mm.

The site is occupied by a two storey semi-detached dwelling with no vehicular access to the site. Due to the topography of the site and the fall of the site from south to north, access from Bronte Road to the dwelling is provided via a set of external stairs within the front building setback. The front setback contains stepped garden beds from the front boundary towards the existing dwelling.

The site is adjoined by matching two storey semi-detached dwelling immediately to the south-west at 456 Bronte Road and a pair of two storey semi-detached dwellings to the north-east at Nos. 460 and 462 Bronte Road. Existing dwellings further to the east and west of the site comprises a mix of detached and semi-detached dwellings with carports and garages within the front building setback and built to the street alignment.

Existing developments on the southern side of Bronte Road, comprises a mix of two and three storey detached dwellings.

Immediately to the north of the site at 41A Murray Street is a one storey is building currently operating as a childcare centre.

Bronte Gully and Bronte Park are located further to the north-east and east of the site, respectively.

The locality is characterised by a variety of low residential development and is in a residential neighbourhood.

Figures 1 to 13 are photos of the site and its context.



**Figure 1:** View of site and adjoining semi-detached dwelling looking north from Bronte Road



**Figure 2:** Existing front fence and landscaping in front setback viewed from Bronte Road



**Figure 3:** Existing carports at adjoining property looking east from Bronte Road



**Figure 4:** Existing carports to the west of the site, looking east from Bronte Road



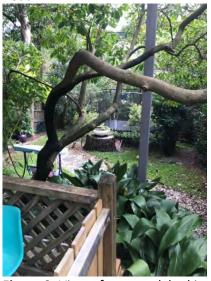
**Figure 5:** View of developments opposite the site looking south from Bronte Road



**Figure 6:** View of existing dwelling and northern side setback, looking north from the front boundary



**Figure 7:** View of front boundary fence and stairs within the front setback and adjoining carport at 460 Bronte Road, looking south towards Bronte Road



**Figure 9:** View of rear yard, looking north from rear of dwelling at ground floor level



**Figure 11:** View of western elevation of 460 Bronte Road, looking across the eastern side setback of the site



**Figure 8:** Existing rear elevation of dwelling looking south from rear yard



**Figure 10:** View of existing rear yard towards the northern rear boundary



**Figure 12:** View of ground floor roof and first floor setback of existing dwelling and rear setbacks of properties to the east, looking east from rear first floor balcony at 456 Bronte Road



**Figure 13:** Looking west from 460 rear balcony across side boundary towards subject site

#### Relevant Development History

A search of Council's records revealed there are no recent and relevant development history for the subject site.

Worthy to note as background, is the adjoining semi-detached dwelling, No 456 Bronte Road was granted recent consent for alterations and additions as part of DA-176/2022 approved 30/09/2022). These applications (456 and 458 Bronte Rd) have been assessed concurrently and complement one another in the setbacks and building form alignments (based on amended plans for each). An extract of the roof plan of the approved scheme of No 456 Bronte Road is shown below:

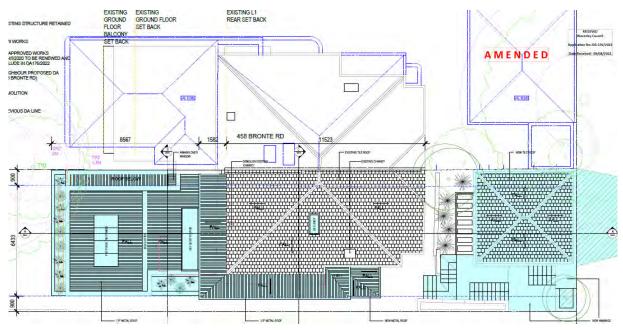


Figure 14: Approved roof plan of DA-176/2022 at 456 Bronte Road

#### Proposal

The development application seeks consent for alterations and additions to existing two storey semidetached dwelling and construction of a 3 storey addition to the rear, a new carport fronting Bronte Road with a studio below, a new swimming pool and rear alfresco area, and landscape works, specifically the following:

#### **Lower Ground Floor**

- Excavation
- Open plan living area including kitchen and pantry;
- WC under stair case to ground floor above; and
- Rear alfresco terrace with retractable awning over.

#### **Ground Floor**

- 17m² studio with ensuite below carport (bedroom and ensuite, typical of guest accommodation, noting there is no kitchenette proposed to provide this area as a secondary dwelling); and
- Partial demolition of ground floor level, alterations and additions for new stairs to first floor, a laundry/mud room, office, storage, rumpus and a bedroom with an ensuite and rear balcony with landscape planter.

#### First Floor

- Partial demolition of first floor, alterations and additions comprising 3 bedrooms, a bathroom and a powder room;
- Demolition of two chimneys;
- A new balcony from Bedroom 3;
- Replace existing front balcony balustrade with rendered base with open vertical balustrade above; and
- Green roof/planter to ground floor roof below.

#### **External Works**

- Demolition of existing stairs within the front building line and construction of a 2 vehicle carport with pitched roof form with bicycle storage and bin storage;
- New swimming pool with 1.2m high fence;
- Decking around pool and stairs adjoining alfresco terrace;
- New 1.8m high side boundary fences;
- New external stairs, front gate and landscaped areas within front setback providing access from Bronte Road to ground floor level of dwelling;
- Removal of 10 trees, retention of one tree along the south-western boundary and new landscape works including new tree plantings; and
- Retention and pruning of adjacent street tree.

#### Background

The development application was lodged on 21 March 2022 and deferred on 11 July 2022 for the following reasons:

- 1. First floor rear addition is excessive in bulk and scale and does not respond appropriately to the rear setbacks of immediately adjoining properties, particularly Nos. 452-456 Bronte Road to the west and Nos. 460-462 Bronte Road to the east.
- 2. Incorrect measurement of maximum building height as the maximum building height plane on the architectural plans have been taken from natural ground level and not existing ground level as defined in the Waverley Local Environmental Plan 2012.
- 3. Variation to the height of buildings development standard contributes to the overall bulk and scale particularly at the rear and does not respond well to the topography of the site and the built form and scale of adjoining properties.
- 4. Gross floor area (GFA) and FSR calculations have not included the area of the stairs on two of the three floor levels and are not accurate. Amended GFA plans and calculations, and revised Clause 4.6 written justification seeking to vary the FSR development standard.
- 5. Amended shadow diagrams are to clearly show the extent of additional overshadowing impacts on adjoining properties, including contextual details such as entire property boundaries of adjoining properties, building footprints, and location of windows, skylights and solar panels.

On 22 July 2022, Council received a request from the applicant seeking an extension of time to address the issues raised in Council's deferral letter.

On 5 August 2022, amended plans and supporting documentation were submitted to Council for consideration. The amended plans included additional external alterations to the dwelling along the northern elevation, a new first floor rear balcony and use of the undercroft area below the carport as a studio. Having regard to the scope of amendments sought, the application was renotified for a period of 14 days to adjoining properties and previous submitters between 15 and 19 August 2022.

On 20 September 2022, the applicant submitted amended plans seeking to reconfigure the proposed swimming pool, decking, adjacent lawn and stair access to the rear yard. Subsequently, amended landscape plans were also submitted. Having regard to the minor nature of the amendments, Council's assessment officer renotified the amended plans to immediately adjoining properties for seven days between 26 September and 3 October 2022.

On 29 September 2022, Council's assessment officer requested further shadow diagram information to clearly show in elevation proposed shadow impacts on the approved habitable windows and skylights at 456 Bronte Road including a comparison with shadow impacts from a compliant first floor building envelope. The applicant submitted additional shadow diagrams on 6 October 2022 for consideration.

#### 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

#### Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021

#### 2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment		
Part 1 Preliminary	Part 1 Preliminary			
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the plan.		
Part 2 Permitted or prohibited de	velopment			
Land Use Table  ● R2 Low Density  Residential Zone	Yes	The proposal is defined as alterations and additions to a semi-detached dwelling, which is permitted with consent in the R2 Low Density Residential zone.		
Part 4 Principal development standards				
4.3 Height of buildings  • 8.5m	No	The existing dwelling has a building height of 9.32m measured to the roof ridge (RL49.60) and exceeds the height of buildings development standard by 9.6%.  The proposal includes a new skylight located on the existing roof slope at a height of 8.807m and therefore is in breach of the maximum building height limit of 8.5m by 307mm (3.6%).  The rear first floor addition has a building height of 8.86m, equating to a variation of 367mm (4.3%).		
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 0.52:1 (278.15m²)	Yes	The proposal has a gross floor area of 259.97m <sup>2</sup> and a FSR of 0.49:1. The proposal is compliant with the maximum FSR development standard and is acceptable.		

Provision	Compliance	Comment
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The site is not identified as a heritage item however it is adjacent to the Bronte Road Landscape Conservation Area (C30) and is in the vicinity of the Bronte Beach and Park Landscape Conservation Area (C29) to the east.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is identified as containing Acid Sulfate Class 5 soils and is not located within 500m of Class 4 soils. The proposal does not seek to excavate below 5m AHD and will not have any adverse impacts on groundwater or the surrounding environment.
6.2 Earthworks	Yes	The extent of excavation for part of the lower ground floor, studio under the carport and new swimming pool is not expected to have any detrimental environmental impacts as the submitted Geotechnical Report prepared by JK Geotechnics has identified shallow fill and natural sands that have been poorly compacted across the site.  Standard conditions relating to undertaking of excavation and fill works and preparation of dilapidation reports of adjoining properties have been recommended.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### Clause 4.6 Exceptions to Development Standards - Height of Buildings

The application seeks to vary the maximum height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of buildings development standard of 8.5m. The existing building height is 9.32m, exceeding the standard by 820mm equating to a 9.6% variation existing. The proposed development includes a new skylight located on the existing roof slope at a height of 8.807m and a rear upper level addition at a height of 8.9m. Therefore, the proposal seeks a variation of 400mm additional height to the rear section of the dwelling, above existing (due to existing structures and topography of the land), equating to a breach of 4.7% for the new additions.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal is consistent with the objectives of the height of buildings development standard as the bulk and scale is consistent with built form controls and the character of low density residential development in the area, maintaining a two storey dwelling set below street level.
  - (ii) The extent of the non-compliance at the rear of the dwelling comprises the skylight on the existing roof slope and the roof form of the rear addition which is located 2.29m lower than the existing roof ridge and is not visible from the streetscape.
  - (iii) The proposal preserves the environmental amenity of neighbouring properties as the height variation does not result in privacy impacts, achieves compliant solar access to private open space and there will be no view loss impacts for surrounding properties.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The non-compliance is a result of the topography of the site which has a steep slope from the front to rear boundary. The proposed height achieves a better outcome for the development by providing functional spaces on a sloping site.
  - (ii) Strict compliance with the development standard would not provide any noticeable benefit for neighbouring properties.

#### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

(a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

#### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The applicant argues that notwithstanding the variation to the height of buildings development standard, the proposal is consistent with the bulk and scale of surrounding developments and the desired future character of the area as the extent of the variation is contained to the rear of the dwelling and is not visible from the public domain and has no additional impact on the streetscape. The applicant has also identified properties which have been approved with variations to the height of buildings development standard at the following properties:

- 40 Murray Street, Bronte (18% variation);
- 33A Murray Street, Bronte (14% variation);
- 435 Bronte Road, Bronte (37% variation); and
- 453 Bronte Road, Bronte (15.3% variation).

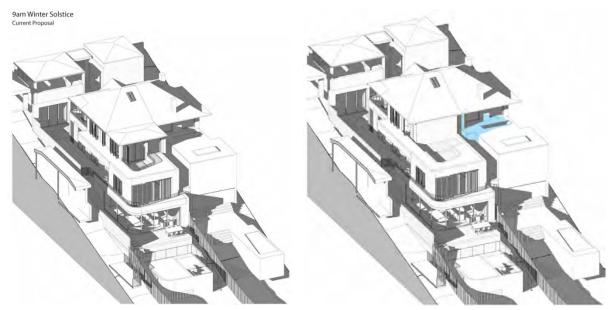
The identified properties at 40 Murray Street, 435 Bronte Road and 453 Bronte Road are located more than 200m from the subject site and do not have a direct relationship with the built form or streetscape character of the site and its immediately adjoining properties located on the northern side of Bronte Road. Whilst 33A Murray Street is located approximately 50m to the west of the site, the existing dwelling (as approved) is part of a different streetscape and is not within the visual catchment of the subject site. As such, the variation to the height of buildings development standard at 33A Murray Street

is not a relevant consideration in regard to appropriate building bulk and scale for the subject site or the desired future character of the immediately surrounding streetscape.

The applicant's justification that the variation to the height of buildings development standard achieves the objectives of compatible height, bulk and scale of the desired future character of the area is accepted with respect to skylights on the existing roof pitch. However, with respect to the proposed rear addition (upper level), the justification is not well founded as the portion of the addition exceeding the 8.5m height control also extends beyond the predominant rear first floor building line of immediately adjoining properties and is not contained within a building envelope that is consistent with the built form of surrounding developments. In particular, the proposal is inconsistent with the approved rear first floor setback of 456 Bronte Road and will result in excessive visual bulk.

The applicant has submitted that the proposal preserves the environmental amenity of surrounding properties and public spaces as it results in minimal solar access and privacy impacts on neighbouring properties and will have no impacts on views from adjoining properties or the public domain. In particular, the applicant relies on the justification that compliant solar access is achieved for the private open spaces of adjoining properties and there are no window openings located above the height of building development standard that would result in additional privacy impacts. This aspect is not agreed with, as the new addition at the rear, will create additional shadow impacts (beyond what would be anticipated with a compliant form) and therefore fails to 'preserve' the amenity of the adjoining properties, being an objective of the standard.

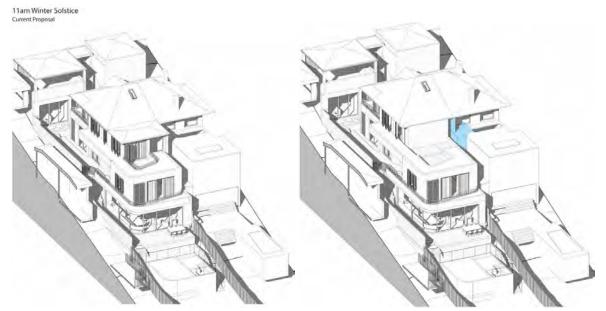
The justification provided by the applicant relating to the preservation of environmental amenity is not well founded as the extent of the variation, which is also inconsistent with predominant rear building line and built form of immediately surrounding properties, will result in additional building bulk and additional overshadowing of the approved habitable windows and skylights at 456 Bronte Road, as illustrated in Figures 15 to 18 below.



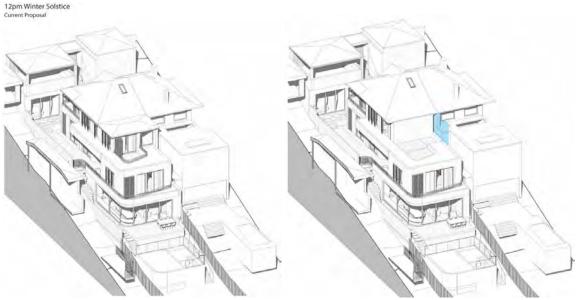
**Figure 145:** Shadow diagram showing overshadowing at 9am on 21 June cast by proposal (left) and a compliant building envelope (right). Shadow impact of the additional shadows cast shown in light blue.



**Figure 156:** Shadow diagram showing overshadowing at 10am on 21 June cast by proposal (left) and a compliant building envelope. Shadow impact of the additional shadows cast shown in light blue.



**Figure 7:** Shadow diagram showing overshadowing at 11am on 21 June cast by proposal (left) and a compliant building envelope. Shadow impact of the additional shadows cast shown in light blue.



**Figure 168:** Shadow diagram showing overshadowing at 12noon on 21 June cast by proposal (left) and a compliant building envelope. Shadow impact of the additional shadows cast shown in light blue.

As demonstrated by the shadow diagrams above, the combination of the proposed building height and rear building line variations will result in additional visual bulk and shadow impacts particularly on the adjoining semi-detached dwelling compared to the reasonable shadow impacts of a compliant building envelope.

In regard to view sharing, the applicant notes there are no existing significant or iconic views from adjoining properties or the public domain that will be impacted by the extent of the variation which is located at the rear of the site and 2.29m below the height of the existing roof ridge of the semi-detached

dwelling. Council's assessment officer agrees that there are no significant or iconic views from surrounding properties or the public domain that will be adversely impacted by the proposal.

As such, the proposal has failed to adequately demonstrate that compliance with the development standard is unreasonable or unnecessary, specifically with regard to the rear upper level addition. The proposed skylight on the existing roof pitch is deemed acceptable.

Accordingly, the rear addition is not supported and recommended to be deleted, as the proposal and justification contained in the Written Request fails to adequately demonstrate the proposal achieves the objectives of the development standard resulting in a development that is compatible with the bulk and scale of surrounding developments and preserving the environmental amenity of neighbouring properties.

A condition deleting the rear addition is recommended for imposition. This will ensure no greater impact (including on shadows to be cast to the adjoining property), thereby 'preserving' the amenity, and will also ensure the rear section of the proposed development complies with the building height development standard (upon condition amending form).

#### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has submitted that the proposal is consistent with the objectives of the R2 Low Density Residential zone as it results in a high quality contemporary rear addition that is compatible with the desired future character of the local area, particularly as the built form that is consistent with the density and scale of surrounding developments. Whilst it is acknowledged that part of the existing roof of the semi-detached dwelling exceeds the height of buildings development standard as a result of the topography of the site, the proposed building bulk at the rear has failed to respond appropriately to the predominant rear first floor building line of immediately adjoining properties and will result in additional overshadowing impacts.

The proposal variation which exceeds the rear first floor building line of the adjoining semi-detached dwelling and immediately surrounding properties has failed to demonstrate how the exceedance is consistent with existing built form. The non-compliance will result in additional overshadowing compared to a compliant building envelope and will have unreasonable environmental impacts on neighbouring properties.

It is considered that an alternative design could be accommodated on the site that achieves compliance with both the FSR and height of building development standards as well as other built form controls. As such, a development that is more compatible with the bulk and scale of surrounding developments with lesser amenity impacts can be achieved with a better, more skillful design.

#### Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular development standard in which the development is proposed to be carried out.

The relevant objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

The extent of the variation sought is contained within the first floor rear addition which extends beyond the predominant first floor rear building line of surrounding properties and is inconsistent with the bulk and scale of surrounding properties. The first floor rear addition will result in additional overshadowing impacts to habitable windows and skylights of the adjoining semi-detached dwelling and is not considered to achieve the objective to preserve environmental amenity of neighbouring properties.

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposal achieves the objectives of the zone as the semi-detached dwelling retains the low density residential use of the dwelling, is compatible with the character of the area and will meet the housing needs of the community.

#### Conclusion

For the reasons provided above the requested variation to the height of buildings development standard with respect to the skylight is accepted. With respect to the rear upper level addition, this component is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the rear addition is not in the public interest because it is inconsistent with the objectives of height of buildings development standard.

It is considered that the proposal is capable of being amended, by conditions included in the recommendation, to achieve general compliance with the height of buildings development standard for the new works and other built form controls including rear setback and wall height requirements.

Subject to design amendments, the only exceedance to the building height standard will be the new skylight to the rear roof pitch and can be supported under Clause 4.6.

#### 2.1.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) - Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
Ecologically Sustainable     Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Able to comply	The site is located within a habitat corridor. The proposal in its current form has not demonstrated compliance with minimum percentage of native or indigenous plantings. Council's Sustainability Officer has reviewed the proposal and recommended conditions to ensure landscape planting contributes to the landscaped character and biodiversity of the area.
5. Vegetation Preservation	Yes	Ten (10) trees are proposed to be removed including one tree (Tree T4) previously approved for removal and eight (8) trees within the footprint of the carport, rear addition, new stair access from the street and swimming pool.  The proposal seeks to retain and protect Tree 1 located within the rear yard of 460 Bronte Road, Tree 11 located along the south-western side boundary of the site and Tree 17 located within the public domain adjacent to the front boundary. The existing garden bed along the front boundary is to be retained to maintain landscape screening when viewed from the street.  The removal of the existing trees is considered acceptable as it will enable reasonable development of the site, as the proposed rear addition at is contained within a building footprint that is consistent with the setback of the recently approved development at the adjoining semi detached dwelling (456 Bronte Road) under DA-176/2022). The proposed removal of trees on the site and replacement tree plantings is supported by Council's Tree Management Officer, subject to tree protection conditions to ensure the retention

Development Control	Compliance	Comment
		of the street tree and trees on adjoining properties.
6. Stormwater	Yes	Satisfactory.
8. Transport  Minimum parking rate:  Nil  Maximum parking rate:  2 spaces for 3 or more bedrooms.	Yes	The proposal provides for 2 car spaces. Its design and location are satisfactory.
9. Heritage	Yes	The site is not a heritage item or within a conservation area but it is immediately adjacent to the Bronte Road Landscape Conservation Area which extend from the intersection of Bronte Road and Gardyne Street to the south-west of the site to Bronte Beach to the east.  The proposal, which retains the existing street tree and the garden along the front boundary does not have any detrimental impact on the landscaped character of this section of Bronte Road and is acceptable.
12. Design Excellence	Yes	Satisfactory.
14. Excavation	No	The proposal seeks to excavate within 200mm of the northern side boundary under the carport for a studio and 400mm from the southern side boundary at the lower ground floor level.  Given the topography of the site within the front building setback, excavation below the carport will vary between 600mm to the west and 1.8m to the east. The proposed excavation and construction of a studio is similar to surrounding properties consisting of useable spaces under carports within the front building setback that are not setback at least 900mm from the side boundary. In this circumstance, the extent of excavation is not considered to result in any adverse environmental impacts and is contextually appropriate.

Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table

Development Control	Compliance	Comment
2.0 General Objectives		

Development Control	Compliance	Comment
<ul> <li>Appropriate scale consistent with low density residential development</li> <li>Development does not detract from the amenity, privacy and views from surrounding developments and public domain</li> <li>Sympathetic bulk and scale with the desired future character of the area</li> <li>High design quality</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the DCP.
2.1 Height		
Maximum external wall height of 7m	No	The proposed first floor rear addition has a wall height of 8.3m and exceeds the maximum wall height control by 1.3m. Due to the topography of the site, the existing ground level immediately below the proposed first floor rear addition has a fall of 2.4m resulting in a non-complaint wall height and exceedance of the height of buildings development standard. As demonstrated in the submitted shadow diagrams, the proposal in its current form results in overshadowing of approved habitable windows and skylights at 456 Bronte Road and will have undesirable amenity impacts on adjoining occupants.  As discussed in further detail below, conditions have been recommended requiring design amendments to the first floor rear building setback to be contained within a compliant building envelope that will not result in any unreasonable impacts on the amenity of adjoining properties.
2.2 Setbacks		No de la companya del companya de la companya de la companya del companya de la companya del companya de la companya de la companya de la companya de la companya del companya de la companya dela companya de la companya de la companya de la companya de la companya dela companya de la companya dela
<ul> <li>2.2.1 Front and rear building lines</li> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>	Yes No	No change is proposed to the existing front building line of the semi-detached dwelling which matches the front building line of the adjoining semi-detached dwelling at 456 Bronte Road.  Existing surrounding developments to the east and west of the site comprise varying rear building lines at lower ground, ground and first floor levels. The proposal has rear building lines at each floor level as follows:

<b>Development Control</b>	Compliance	Comment
2.2.2 Side setbacks  • Minimum of 1.2m  2.3 Streetscape and visual impact to the set of	Yes	<ul> <li>23.56m at lower ground floor, projecting 1.64m beyond the approved rear setback of 456 Bronte Road. Given the topography of the site and adjoining properties, the proposed lower ground floor rear setback will not contribute to unreasonable building bulk or loss of privacy to the private open space of the adjoining property and is acceptable.</li> <li>25.2m at ground floor aligns with the approved ground floor rear building line of the adjoining semi-detached dwelling at 456 Bronte Road and is contextually appropriate.</li> <li>30.39m at first floor level extends 2.7m beyond the approved first floor setback at 456 Bronte Road and 2.6m beyond the first floor setback at 460 Bronte Road. The projection of the first floor rear setback is inconsistent with the predominant first floor rear setback of immediately adjoining properties and is not supported. Conditions requiring design amendments to align the first floor rear setback with the approved rear setback of 456 Bronte Road have been included in the recommendation.</li> <li>The proposal has varying side setbacks to the north-eastern side boundary as follows:         <ul> <li>1.96m on the lower ground floor</li> <li>Between 1.96m and 3.697m on the ground floor; and</li> <li>Between 2.11m and 3.7m on the first floor.</li> </ul> </li> <li>The proposal has setbacks to the south-western side boundary as follows:         <ul> <li>Nil setbacks on the lower ground floor;</li> <li>Nil to 600mm setback on the ground and first floors.</li> </ul> </li> <li>The nil setbacks are contextually appropriate given the character of the existing semi-detached dwellings and will not result in visual, built form or amenity impacts.</li> </ul>
2.3 Streetscape and visual iiii	Pull	

<b>Development Control</b>	Compliance	Comment
<ul> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> <li>Significant landscaping to be maintained.</li> <li>Porticos only permitted where a character of the streetscape</li> </ul>	Yes  No – acceptable on merit  Yes  No	The proposed carport comprising a pitched roof and roller door at the front property boundary with the semi-detached dwelling partially obscured from view from the public domain due to the topography of the site, is compatible with existing developments within the streetscape comprising similar style carports and garages.  The proposal seeks to replace existing narrow and vertically proportioned window openings with full height windows and doors. Whilst the proposed openings do not match the proportions of existing openings, the dwelling is not heritage listed and the openings are not prominently visible from the public domain and will not have any impact on the appearance of the dwelling or adjoining semi-detached dwelling.  The proposed replacement tree and shrub plantings have various mature heights and tree canopies that will contribute to the landscaped character of the locality and amenity of occupants and surrounding properties.  The proposal includes a portico adjoining to the carport fronting Bronte Road with a flat aluminium roof measuring 2.8m in height and a and a 1.8m timber pedestrian gate.  The scale of the portico is excessive and not consistent with the existing streetscape. A condition has been recommended to delete the portico structure.
2.4 Fences		
<ul> <li>Front:</li> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> <li>Side and Rear:</li> <li>Maximum height of 1.8m</li> </ul>	No – acceptable on merit Yes	The proposal does not comprise a fence on the front boundary. The proposed entry gate has a height of 1.8m. A condition has been included requiring a reduction in the height of the pedestrian gate to a maximum 1.2m and comprise 50% open design to improve the presentation to the street and contribute to passive surveillance.  1.8m high fences are proposed along the side and
		rear boundaries, measured from the ground level at the boundary. The height of the side boundary fences will be greater than 1.8m when viewed from the adjoining properties due to difference in natural ground levels, however the proposed fences will be screened by existing landscaping at adjoining properties and will not be visually

<b>Development Control</b>	Compliance	Comment
		prominent or adversely impact the amenity of adjoining properties.
2.5 Visual and acoustic privac	v	aujonning properties.
Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design	Yes	Proposed habitable room openings facing the northern side boundary on the ground and first floors are setback 3.7m from the northern side boundary which is more than twice the minimum side boundary setback requirement of 1.2m. The proposed 1.8m high fence and screen planting along the northern side boundary will adequately maintain privacy between the occupants and the adjoining property at 460 Bronte Road at ground level. The habitable room windows have external privacy screens angled to minimise direct sightlines to habitable windows and private open space of the adjoining property and is acceptable.  The proposed first floor balcony is an extension of the existing first floor balcony on the east elevation and is setback 3.7m from the north side boundary providing sufficient separation from the adjacent dwelling. The balcony is accessed from a Bedroom, is orientated towards the front setback of the site and adjoining property and is unlikely to result in any unreasonable amenity impacts.
<ul> <li>External stairs are not acceptable.</li> <li>Maximum size of balconies:         <ul> <li>10m² in area</li> <li>1.5m deep</li> </ul> </li> </ul>	No – acceptable on merit  No – amendments recommended	Due to the topography of the site, existing external stairs provide access from the street to the dwelling within the front building setback. The proposal seeks to demolish the existing stairs and construct new stairs and an entry gate along the south-eastern corner of the site. The stairs provide adequate access to the dwelling and is similar to existing stairs within the front setback of adjoining properties. The proposal will not result in any loss of privacy for adjoining properties and is acceptable.
		The existing first floor balcony on the east elevation has a depth of 1.3m and an area of 6.1m². The proposal seeks to extend the balcony to the north with a depth of 0.9m and an area of 11.5m². Notwithstanding the exceedance in area by 1.5m², the balcony is accessed from a bedroom and is primarily orientated towards the front building setback. The balcony is unlikely to be used for entertainment associated with principle living spaces and is acceptable.

<b>Development Control</b>	Compliance	Comment
		The proposed first floor rear balcony accessed from Bedroom 3 is irregular in shape, has a maximum width of 3.4m and an area of 9.8m². Given the elevated position of the balcony and its projection beyond the predominant rear building setback at the first floor level, the balcony will likely result in privacy impacts on adjoining properties. Any requirement for privacy screening to mitigate overlooking of adjoining private open space is likely to result in additional building bulk which is not acceptable.  Having regard to the recommended design amendment to the first floor rear building line, a condition has been included to reduce the first floor rear balcony to a maximum depth of 1.5m and area of 10m² to provide good amenity and outlook for future occupants whilst minimising privacy impacts of adjoining properties.
2.6 Solar access		p ,
<ul> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	Yes Yes No	The proposed principle living areas will receive a minimum of 3 hours of sunlight between 9am and 3pm on 21 June.  The proposal does not have any additional impact on solar access to principle open space of immediately adjoining properties between 9am and 3pm on 21 June and will not result in any unreasonable amenity impacts.  The proposed first floor addition will result in overshadowing of the approved first floor habitable room windows on the western elevation and skylight to the staircase and ground floor study of 456 Bronte between 9am and 12noon on 21 June. The proposed overshadowing exceeds the shadow impacts resulting from a
		compliant built form and is therefore not considered reasonable.  Conditions have been included in the recommendation requiring the first floor rear addition to align with the rear setback of the adjoining semi-detached dwelling and must not exceed the height of building development standard of 8.5m.
2.7 Views		
<ul> <li>Views from the public domain are to be maintained</li> </ul>	Yes	There are currently no views from the public domain that will be impacted by the proposal.

Development Control	Compliance	Comment
Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.	Yes	The bulk and scale of the rear addition has been adequately reduced to minimise impacts on the outlook from surrounding properties to the west of the site to the Bronte Gully further to the east. Existing views from surrounding properties to the Bronte Gully are not considered significant or iconic views but it is acknowledged that the views are highly valued by surrounding residents. The proposed ground floor rear building line is aligned with the ground floor rear building line of the adjoining semi-detached dwelling at 456 Bronte Road (as approved under DA-176/2022) and will not result in any unreasonable loss of views of the Bronte Gully from surrounding properties.
2.8 Car parking		
<ul> <li>2.8.1 Design Approach</li> <li>Parking only allowed where site conditions permit</li> <li>Designed to complement</li> </ul>	Yes Yes	The proposal for on site parking from Bronte Road and a carport within the front building setback is compatible with the location of existing car parking for surrounding properties on the northern side of the street.
the building and streetscape  Car parking structures to be behind the front	No – acceptable on	The proposed driveway crossing at the gutter measures 3m wide and will not result in a net reduction of available street parking spaces.
<ul> <li>Driveways are to be located to minimise the loss of on street parking</li> </ul>	merit Yes	
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012.
<ul> <li>2.8.3 Location</li> <li>Behind front building line for new dwellings</li> <li>Existing development to be in accordance with the hierarchy of preferred car parking locations</li> </ul>	No - acceptable on merit	The proposed car parking is located within the front building line at the front property boundary and is a predominant feature within the streetscape.  The topography of the site does not accommodate vehicle access behind the front building line of the site and is acceptable in this circumstance as it will not result in any adverse impact on the streetscape, street parking or public amenity.
2.8.4 Design     Complement the style,     massing and detail of the     dwelling	Yes	The existing streetscape comprises of carports and garages within the front building line and occupies a majority of the street frontage of properties. Existing carports and garages obscure views of dwellings from the public domain.

Development Control	Compliance	Comment
<ul> <li>Secondary in area and appearance to the design of the residences</li> <li>No part of the façade is to be demolished to accommodate car parking</li> <li>Gates to have an open design</li> </ul>	No – acceptable on merit Yes	The proposed pitched roof carport is detached from the semi-detached dwelling and does not detract from the character of the dwelling which is set down below the level of the street.  The proposed door to the carport is not open in design but is consistent with the style of surrounding carports and garages in the vicinity of the site and does not detract from the character of the streetscape.
2.8.5 Dimensions  • 5.4m x 2.4m per vehicle	Yes	The internal dimensions of the carport measures 5.6m x 5.7 m and can adequately accommodate 2 vehicles.
2.8.6 Driveways     Maximum of one per property	Yes	The proposal seeks approval for one driveway with a width of 3m at the gutter. The proposal does not result in the loss of 2 or more on street
Maximum width of 3m at the gutter (excluding splay)	Yes	parking spaces and is acceptable, subject to conditions to ensure the driveway crossing has a maximum width of 3m at the gutter.
<ul> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>	Yes	
2.9 Landscaping and open spa	ce	
<ul> <li>Overall open space: 40% of site area (213.96m²)</li> <li>Overall landscaped area: 15% of site area</li> </ul>	Yes Yes	The proposal provides a total area of 313.18m² for open space, equating to 58.5% of the site area and is compliant with the minimum required open space for the site.
<ul> <li>(80.25m²)</li> <li>Minimum area of 25m² for private open space</li> <li>Front open space: 50% of</li> </ul>	Yes Yes	The proposal provides a total of 189.54m <sup>2</sup> of landscaped area, equating to 35.4% of the site area and is compliant with the minimum required
front building setback area (43.43m²)		landscaped area for the site.
• Front landscaped area: 50% of front open space provided (21.75m²)	Yes	The site has a private open space area between the rear of the dwelling and the swimming pool measuring 52.7m <sup>2</sup> , and additional private open
<ul> <li>Outdoor clothes drying area to be provided</li> </ul>	Not shown	space to the rear measuring 112.1m <sup>2</sup> .
		The proposal provides an area of open space within the front setback measuring 43.83m², equating to 50% of the front setback and comprises 21.85m² of landscaping (50% of the front open space). The proposed front setback will be occupied by a carport and landscaping which is consistent with the existing front setback and

Development Control	Compliance	Comment
		landscaping of immediately surrounding properties on the northern side of Bronte Road.  No outdoor clothes drying area has been shown on the architectural plans, however, the rear private open space has sufficient area to accommodate any clothes drying needs of occupants and is acceptable.
2.10 Swimming pools and spa	pools	
<ul> <li>Located in the rear of property</li> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	Yes Yes	The proposed swimming pool is located within the rear yard and is adjacent to the north-eastern side boundary. The pool is separated from the side boundary by landscaping comprising a row of screen planting "Resilient Lilly Pilly" with a mature growth height of between 2-4m which provide screening above the height of the proposed 1.8m high side boundary fence.
		The adjacent deck adjoining the south-eastern side of the pool will not result in any adverse overlooking or loss of privacy for the adjoining property as the proposed side boundary fence measures a height of between 1.7m to 2.6m above the finished floor level of the deck and will not result in any direct overlooking of adjoining private open space at 460 Bronte Road.  The finished floor level of the deck is located between 1m and 1.5m below the top of the
		proposed 1.8m high south-western side boundary fence. The deck will not result in any loss of privacy for the adjoining property at 456 Bronte Road as screen planting (Rhapis excelsa) and trees (Tristaniopsis 'Lucious') with mature growth heights of between 4-6m are to be planted adjacent to the boundary fence.
2.13 Semi-detached dwellings	and terrace styl	e development
<ul> <li>2.13.1 - Built form</li> <li>Additions to match the style of the original semidetached dwelling</li> </ul>	Yes	The proposed alterations and additions are predominantly to the rear of the dwelling and do not have any adverse impacts on the appearance of the semi-detached dwelling when viewed from
Existing roof form     maintained forward of     principal ridgeline	Yes	the street. The existing roof form forward of the ridgeline is maintained. The front first floor balcony is retained, with an extension wrapping
Front verandahs to be maintained.	Yes	around to the north elevation. The proposed extension of the first floor balcony does not adversely impact the appearance of pair semi-detached dwelling as the north-eastern corner of the dwelling is not prominently visible from the

Development Control	Compliance	Comment
2.12.2 First floor additions		street and will be obscured by the proposed carport.
<ul> <li>2.13.2 - First floor additions to semi-detached dwellings</li> <li>First floor addition to be</li> </ul>	Yes	The first floor addition is contained to the rear and does not impact the existing front roof slope.
setback from the principal street frontage and maintain the existing front roof slope		The floor level of proposed first floor addition is aligned with the first floor level of the adjoining semi-detached dwelling at 456 Bronte Road and does not result in any undesirable rise in the
Limit the rise of the interface with adjoining	Yes	party wall.
semi-detached dwelling to 600mm • First floor additions	No	The proposed first floor addition has a pitched roof form and a balcony which is inconsistent with form of the first floor rear addition of the
should match the style of the additions on the		adjoining semi-detached dwelling.  Given that the semi-detached dwellings are not
adjoining semi (if relevant).		heritage listed, no objection is raised to the rear of the dwellings consisting different
		architectural styles. However, it is recommended that the proposed first floor rear building line be amended to align with 456 Bronte Road to achieve compliance with the setback and building wall
		height controls, height of building development standard and minimise environmental impacts on adjoining properties. Conditions requiring design amendments to the first floor level have been included in the recommendation.
2.13.3 - Material finishes and detail for semi-detached		The proposal to render external walls of the dwelling will not detract from the character of the
<ul> <li>dwellings</li> <li>Finishes and detailing are to be cohesive with the existing dwelling</li> </ul>	Yes	semi-detached dwelling and will be consistent with the approved rendered finishes of the adjoining semi-detached dwelling and is acceptable.
Historic features of the roofscape are to be incorporated into the	Yes	The proposal retains the existing roof of the dwelling which matches the roof of the adjoining
<ul> <li>addition</li> <li>New windows to have a similar proportion to the existing</li> </ul>	Yes	semi-detached dwelling particularly when viewed from the public domain. The proposed window openings are vertically proportioned and do not detract from the style of the semi-detached
<ul> <li>Upper wall finishes to reflect the style and character of the original building.</li> </ul>	Yes	dwelling.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

# First Floor Rear Setbacks

In accordance with the rear setback provisions under Section 2.2.1 of the Waverley DCP 2012, the proposed first floor rear building line is to be determined based on the rear first floor building line of adjacent properties.

An analysis of the surrounding properties located on the northern side of Bronte Road show a mix of semi-detached and detached dwellings with varying rear building lines at lower ground, ground and first floor levels. Given that the site is a semi-detached dwelling, the calculation of the predominant rear building line has taken into consideration the rear building lines of four properties immediately to the east and west of the site. The properties at Nos. 454, 456, 460 and 462 Bronte Road are suitable for determining the predominant rear building line as the dwellings have a front building setback that is consistent with the subject dwelling and similar first floor rear building lines.



**Figure 17:** Aerial view of site and immediately adjoining properties, predominant rear first floor setbacks shown in yellow dash line (Source: NearMap, August 2022)

The first floor rear building line at the adjoining semi-detached dwelling at 456 Bronte Road measures 33.7m from rear boundary, as approved under Development Consent DA-176/2022. The existing first floor rear building line at 454 Bronte Road further to the west measures 34.2m from rear boundary. The semi-detached dwellings to the east at Nos. 460 and 462 Bronte Road have first floor rear building lines

measuring 33m and 35.2m (from rear boundaries), respectively. As such, the calculated average first floor rear building line of immediately adjoining properties is 34m measured from rear boundary line.

The proposed first floor rear building line of 30.4m from rear boundary extends 3.3m beyond the approved first floor rear building line at 456 Bronte Road and 3.6m beyond the average first floor rear building of immediately adjoining properties. The western most portion of the first floor rear addition also exceeds the maximum building wall height by 1.2m and the height of buildings development standard by 367mm and results in additional building bulk when viewed from the rear private open space and window openings of surrounding properties and will have additional overshadowing impacts on habitable windows and solar collectors at 456 Bronte Road. The proposed rear first floor building line has an unacceptable built form and environmental amenity impacts on adjoining properties and is not supported in its current form.

Given that the subject site is adjoined to the semi-detached dwelling at 456 Bronte Road, it is considered appropriate to impose a condition that requires the proposed first floor rear building line to align with the approved first floor rear building line at 456 Bronte Road. The recommended rear setback will result in a first floor addition that is contained within a compliant building envelope, is consistent with the bulk and scale of surrounding properties and will not result in any unreasonable environmental impacts on neighbours.

# Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

# Suitability of the Site for the Development

The site is considered suitable for the proposal.

# **Any Submissions**

The application was notified for 14 days between 15 and 19 August 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*. Ten submissions were received.

Following receipt of amended plans and additional information, the application was re-notified for 14 days. Three submissions were received.

Overall, a total of 13 unique submissions were received from the following properties:

Table 4: Number of and where submissions were received from.

Count	Property Address
1.	450 Bronte Road, Bronte x 2 submissions
2.	452 Bronte Road, Bronte
3.	454 Bronte Road, Bronte x 4 submissions
4.	456 Bronte Road, Bronte

5.	460 Bronte Road, Bronte
6.	464 Bronte Road, Bronte
7.	468a Bronte Road, Bronte
8.	39b Murray Street, Bronte
9.	Bronte Beach Precinct

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Insufficient rear setback
- Excessive bulk and scale
- Loss of visual privacy
- Loss of light
- View loss impacts to the Bronte Gully
- Tree removal and loss of trees canopy
- Car parking will result in tree loss
- Excessive excavation

All other issues raised in the submissions are summarised and discussed below.

Issue: Insufficient and inaccurate details on architectural plans.

**Response:** Amended plans have been submitted and have included sufficient contextual details. Measurement of building height have been correctly shown on the amended plans in accordance with definition for building height under the Waverley LEP 2012.

*Issue:* Misleading information provided in Statement of Environmental Effects to justify non-compliances.

**Response:** Amended plans and supporting documentation have been submitted to address non-compliances with relevant planning controls. Notwithstanding the justification provided in the Statement of Environmental Effects, the proposal has been assessed against applicable planning controls as detailed in the report above.

Issue: Shadow diagrams during summer not provided.

**Response:** Shadow diagrams at the summer equinox are not required to be submitted as part of the application as the shadow impacts between 9am and 3pm on 21 June has greater impact on the amenity of adjoining properties.

# **Public Interest**

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

# REFERRALS

The following internal and external referral comments were sought:

# **Traffic and Development**

The proposal was referred to Council's Traffic Engineer who raised no objection to the proposal, subject to conditions which have been included in the recommendation.

# Stormwater

The proposal was referred to Council's Stormwater Engineer who raised no objection to the proposal, subject to conditions which have been included in the recommendation.

# Tree Management

The proposal was referred to Council's Tree Management Officer who raised no objection to the proposed removal of 10 trees within the site, subject to proposed replacement tree plantings as per the submitted landscape plan and conditions requiring the retention and protection of adjoining trees. Council's Tree Management Officer is satisfied that the proposed pruning of the street tree to accommodate the construction of the carport will not have any adverse impacts on the health and viability of the street tree and is supported subject to tree protection conditions which have been included in the recommendation.

# **Biodiversity**

The proposal was referred to Council's Sustainability Officer who has recommended conditions requiring amendment to the planting schedule to comply with the minimum requirements for planting of native and indigenous plants to contribute to the habitat corridor. Landscape conditions requiring plantings to comprise a minimum of 50% indigenous or native species in accordance with the Waverley DCP have been included the recommendation.

# 4. CONCLUSION

The development application seeks consent for alterations and additions to the existing semi-detached dwelling including a new 3 storey addition at the rear, construction of a new carport fronting Bronte Road, a swimming pool and decking at the rear and landscape works at the site known as 458 Bronte Road, Bronte.

The principal issues arising from the assessment of the application are as follows:

- Building Height
- Rear building setback
- Elevated balcony dimensions
- Excavation to side boundary

The assessment finds the issues relating to excavation acceptable having regard to the context of similar development immediately surrounding the site and the proposal not likely to have any adverse environmental impacts on neighbouring properties, subject to inclusion of standard conditions relating to earthworks in the recommendation.

The proposed breach to the height development standard is only supported with respect to skylights on the rear roof ridge. Rear additions to the upper level fail to satisfy the objectives of the standard and the Written Request under Clause 4.6 is not supported for that addition, which is considered to result in additional shadows and therefore will not 'preserve' the amenity of adjoining properties. Subsequently, conditions are recommended for a reduction of these upper level additions to bring the proposed form into compliance by requiring an increase to the first floor rear building line to align with the approved rear first floor building line of the adjoining semi-detached dwelling at 456 Bronte Road. Design amendments to reduce the proposed built form and size of the first floor rear balcony will result in a development that is contained wholly within a compliant building envelope (with exception of skylight) and is generally consistent with the height of buildings and floor space ratio development standards. As such, the proposal subject to conditions, will not result in any unreasonable environmental impacts on adjoining properties and is acceptable.

A total number of 13 submissions were received (10 to original, 3 to amended scheme) and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

No conflict of interest for this application has been declared.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

# Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 6 September 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara and B Magistrale* 

# 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
P. Darg	

Peggy Wong	Angela Rossi	
Senior Development Assessment Planner	Manager, Development Assessment (Area 1 – Bronte, Bondi, Queens Park, Tamarama) (Reviewed and agreed on behalf of the	
	Development and Building Unit)	
Date: 7 October 2022	Date: 12 October 2022	

# Reason for WLPP referral:

2. Contentious development (10 or more objections)

# APPENDIX A - CONDITIONS OF CONSENT

# A. APPROVED DEVELOPMENT

# 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by CM Studio Pty Ltd of Project No: 137 including the following:

Plan Number	Plan description	Plan Date	Date received by
and Revision			Council
DA002, Issue C	Site Plan + Site Analysis	20.09.2022	20.09.2022
DA100, Issue C	Lower Ground Floor Plan	20.09.2022	20.09.2022
DA101, Issue B	Ground Floor Plan	02.08.2022	20.09.2022
DA102, Issue B	First Floor Plan	02.08.2022	20.09.2022
DA106, Issue B	Roof Plan	02.08.2022	20.09.2022
DA200, Issue B	South (Street) Elevation	02.08.2022	20.09.2022
DA201, Issue B	West Elevation	02.08.2022	20.09.2022
DA202, Issue C	North Elevation	20.09.2022	20.09.2022
DA203, Issue B	East Elevation	02.08.2022	20.09.2022
DA204, Issue B	North (Garage) Elevation	02.08.2022	20.09.2022
DA301, Issue C	Section 1	20.09.2022	20.09.2022
DA302, Issue C	Section 1A	20.09.2022	20.09.2022
DA303, Issue B	Section 2	02.08.2022	20.09.2022
DA304, Issue C	Section 3	20.09.2022	20.09.2022
DA305, Issue C	Pool Plan + Section	20.09.2022	20.09.2022
DA306, Issue B	Driveway Plan + Section	02.08.2022	20.09.2022
DA355, Issue B	Excavation Plan	02.08.2022	20.09.2022
DA405, Issue B	Green Roof Statement	02.08.2022	20.09.2022
DA450, Issue B	Schedule of Finishes	02.08.2022	20.09.2022

- (b) Landscape Plan No. LP01-D0222 to LP04-D0222 (inclusive), Revision E dated 23.09.2022 and prepared by Dangar Barin Smith, and received by Council on 23 September 2022
- (c) BASIX Certificate
- (d) Arborist Report prepared by Tree Management Strategies dated 8 March 2022, and received by Council on 21 March 2022
- (e) The Site Waste and Recycling Management Plan (SWRMP) Part 1 and received by Council on 21 March 2022
- (f) Geotechnical Report, Revision 1, prepared by JK Geotechnics Pty Ltd dated 25 February 2022 and received by Council on 21 March 2022

Except where amended by the following conditions of consent.

# 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) The first floor rear setback is to be amended to measure no less than 33.7m from the rear boundary and is to align with the approved first floor rear building line at No. 456 Bronte Road, Bronte (DA-176/2022). The external wall height and roof of the first floor rear addition must not exceed the 7m

wall height control and 8.5m height of buildings development standard in accordance with the definition for building height under the Waverley Local Environmental Plan 2012.

- (b) The first floor rear balcony on the north elevation is to be reconfigured to comprise a maximum depth of 1.5m and have an area no greater than 10m<sup>2</sup>. The remainder of the roof area may be a continuation of the (non trafficable) planter.
- (c) The portico and associated structure, including columns, adjacent to the carport on the front boundary is to be deleted.
- (d) The pedestrian gate adjacent to the front boundary and carport is to have a maximum height of 1.2m and be 50% open design, to be in keeping with the surrounding streetscape.

The amendments are to be approved by the **Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

# 3. APPROVED USE - DWELLING HOUSE WITH STUDIO

This application approves the use of the principle dwelling on site as a single unit dwelling house only, with a studio below the carport at the front.

No approval is granted or implied for the studio to be used as a domicile.

# B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

# **GENERAL REQUIREMENTS**

#### 4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

# 5. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6, before any work commences.

# **CONTRIBUTIONS, FEES & BONDS**

# 6. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:
    - "Waverley Council Cost Summary Report"; or,
  - (ii) Where the total development cost is \$500,000 or more: "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

# 7. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$36,010.40 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

# 8. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

#### 9. TREE BOND

A bond of \$5,000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the street tree at the front of the property. The bond is to be lodged prior to the issue of a Construction Certificate.

The sum will be forfeited to the Council at its discretion for a breach of these requirements and will be refunded twelve (12) months from the issue of the Occupation Certificate subject to the satisfaction of Council.

# **CONSTRUCTION MATTERS**

# 10. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the

hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

#### 11. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

# 12. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

# 13. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

# 14. ENGINEERING CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

#### 15. GROUND ANCHORS

Where any ground anchors (i.e. rock or sand anchors) are proposed to extend beyond the property boundary beneath roadways and other Council property, details must be submitted to and approved by Council's Executive Manager, Infrastructure Services (or delegate) and will be subject to fees. For further information regarding this, please contact <a href="mailto:assets@waverley.nsw.gov.au">assets@waverley.nsw.gov.au</a> on 9083 8886.

Separate approval will be required for ground anchors beneath roadways governed by the Roads and Maritime Services.

#### 16. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

# **STORMWATER & FLOODING**

# 17. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by RTS Civil Consulting Engineers, Project No. 220101, Drawing No. CP100, SW100, SW101, SW200, SW201, Revision A, dated 07.03.2022, are considered conceptual.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- (a) As the current design is proposing a pump out system, evidence must be submitted to Council that an honest and reasonable attempt has been made to acquire an easement to drain water through the downstream property or demonstrated that all avenues to establish an easement be impractical or unviable. Councils sample easement letter can be used, annexure N available in the Council Water Technical Manual.
- (b) The plans shall provide details the On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- (c) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- (d) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- (e) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (f) As the property naturally falls to the rear, calculations demonstrating that the proposed stormwater drainage system can cater for the 1% AEP storm event shall be provided. Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided.
- (g) A sediment control stormwater pit must be installed inside the property, adjacent to the boundary. The connection between the boundary and kerb must be designed for gravity discharge with minimum 1% fall.
- (h) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of any OSD system).

- (i) A grated trench drain shall be provided across the (garage entrance/driveway/street boundary) within private property. Unless otherwise sized by a suitably qualified and practising Engineer, the dimensions of the trench grate shall be no less than 300 mm wide by 100 mm deep at the shallow end and have a "bottom" slope of 2%. This trench drain shall be connected to an approved drainage system.
- (j) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

#### Notes:

- Since a sewer main runs through the rear of the property, plans must also be presented to a Sydney Water Tap in<sup>TM</sup> for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure
  any additional damage or unauthorised works within the Council property, not conditioned
  above. Council will reserve the right to withhold the cost of restoring the damaged assets from
  the security deposit should the applicant fail to restore the defects to the satisfaction of
  Council.
- Council's contact for infrastructure assessment: E-mail: <a href="mailto:assets@waverley.nsw.gov.au">assets@waverley.nsw.gov.au</a> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

# 18. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

# **ENERGY EFFICIENCY & SUSTAINABILITY**

# 19. BASIX

All requirements of the BASIX Certificate are to be shown on the Construction Certificate plans and documentation.

# WASTE

# 20. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

# LANDSCAPING & TREES

#### 21. GREEN ROOF LANDSCAPING DETAILS

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species.
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

#### 22. LANDSCAPE WORKS IN A HABITAT CORRIDOR

A landscape plan is to be submitted to and approved by Council's Executive Manager, Environmental Sustainability (or delegate) with a plant species list having a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of the Waverley Development Control Plan 2012.

# TRAFFIC MANAGEMENT

# 23. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development\_applications/post\_determination/development\_applications - conditions of consent

#### 24. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

# C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

# PRIOR TO ANY WORKS

# 25. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

# **DEMOLITION & EXCAVATION**

# 26. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

# 27. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

# 28. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

# 29. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

# **CONSTRUCTION MATTERS**

# 30. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

# 31. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

# 32. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

# 33. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

# 34. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### 35. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

# 36. STRUCTURAL STABILITY OF ADJOINING SEMI-DETACHED DWELLING'S ROOF

Adequate measures are to be undertaken to ensure structural stability and water proofing of the existing roof over the adjoining semi-detached dwelling having particular regard to the following:

- (a) Adequate measures are undertaken to secure the existing rafters and ridge to the brickwork of the party wall; and
- (b) Adequate measures are undertaken to ensure that the roof where it abuts the extended party wall is water proofed.

# 37. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

# 38. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

# TREE PROTECTION AND REMOVAL

# 39. TREES PERMITTED TO BE REMOVED

The following trees are permitted to be removed;

Tree	Species	Location	Action	
No.				
T 1	Casuarina cunninghamiana	On site	Retain & Protect	
T 2	Archontopheonix cunninghamiana	On site	Retain & Protect	
Т3	Archontopheonix cunninghamiana	On site	Retain & Protect	
T 4	Lagerstroemia indica	On site	Remove as per arborist report	
T 5	Callistemon viminalis	On site	Remove as per arborist report	
Т6	Prunus species	On site	Remove as per arborist report	
Т7	Oleander species	On site	Remove as per arborist report	
T 8	Archontopheonix cunninghamiana	On site	Retain & Protect	
Т9	Archontopheonix cunninghamiana	On site	Retain & Protect	
T 10	Draceana marginata	On site	Retain & Protect	
T 11	Syzygium paniculatum	On site	Retain & Protect	
T 12	Hymenosporum flavum	On site	Remove as per arborist report	
T 13	Magnolia soulangeana	On site	Remove as per arborist report	
T 14	Melaleuca quinquenervia	On site	Remove as per arborist report	
T 15	Archontopheonix cunninghamiana	On site	Remove as per arborist report	
T 16	Eucalyptus robusta	On site	Remove as per arborist report	
T 17	Melaleuca quinquenervia	Street tree	Retain & Protect	
T 18	Jacaranda mimosifolia	On site	Remove as per arborist report	
T 19	Eucalyptus saligna	On site	Retain & Protect	

# 40. TREE PROTECTION

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

No existing street trees shall be removed without Council approval. The existing **Melaleuca quinquenervia** tree on the naturestrip at the front of the property in Bronte Rd is to be protected for the duration of the construction works.

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;

- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

**Trunk protection** as per AS 4970 – 2009, Section 4.5.3 is to be installed.

Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.

The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

- TPZ A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.
- If any tree roots are exposed during any approved works then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.
- If tree roots are required to be removed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).
- It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process, then Waverley Council's Tree Management Officer is to be contacted to make final determination.
- If any trees on neighbouring properties require pruning, then permission must be gained from the owner of the tree(s) and an Application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.
- If any trees on Council owned land require pruning, the applicant is to supply an tree pruning
  report from an Arborist with AQF level 5 qualification or above with photos showing the
  branches that need to be removed.
- If approval is granted the applicant may prune the tree at their expense, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

# **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

# 41. NEW VEHICLE CROSSING

A new vehicle crossing is to be provided to access the proposed carport. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

The crossing is to be 5.0 metres wide at the property boundary and 3.0 metres wide plus 0.45 metre splays at the street.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

# 42. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH

The finished level at the property boundary on **both** sides of the vehicle crossing is to be **50mm above** the level of the existing concrete footpath.

# 43. HEADROOM CLEARANCE

The headroom clearance within the carport is to be a minimum of 2.2 metres.

# D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### 44. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

# 45. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

# 46. CERTIFICATION OF LANDSCAPING

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

#### 47. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

- (a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, detention facility, rainwater reuse facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- (b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### 48. ON-SITE STORMWATER DETENTION CERTIFICATION

The submission of certification by a suitably qualified and practising Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of any Occupation Certificate.

# 49. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### 50. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of the pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the pump out system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

# 51. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<a href="http://www.swimmingpoolregister.gov.au">http://www.swimmingpoolregister.gov.au</a>);
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

# **E. OPERATIONAL MATTERS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

# **GENERAL MATTERS**

# 52. RAINWATER HARVESTING AND REUSE

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

# F. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

# AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to <a href="mailto:info@waverley.nsw.gov.au">info@waverley.nsw.gov.au</a> or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s
  into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

# AD2. SYDNEY WATER REQUIREMENTS

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

#### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate

and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

# AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

# AD5. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

#### AD6. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

# AD7. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### AD8. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

# AMENDED PLANS Development Application

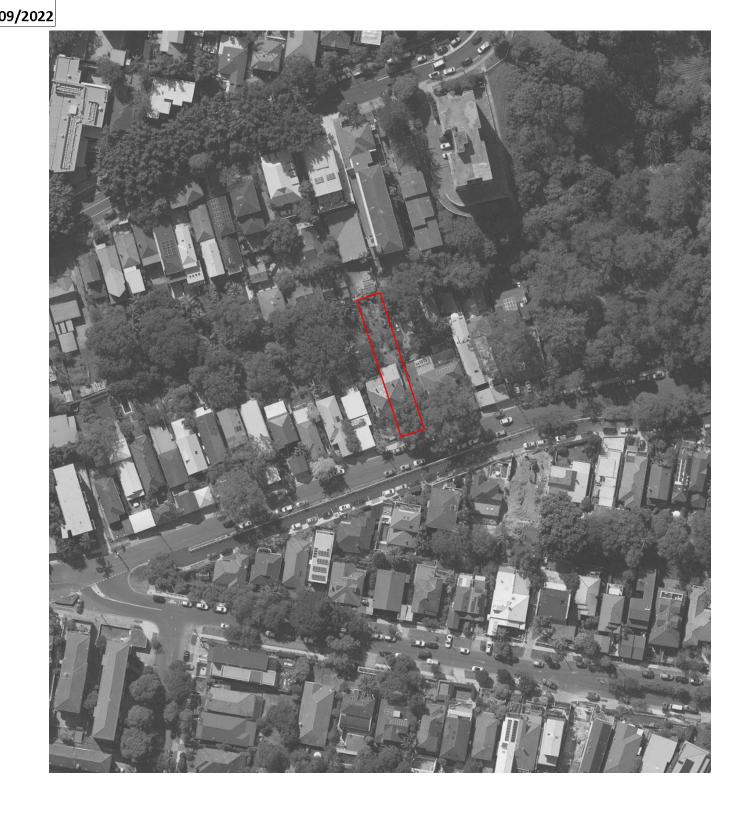
RECEIVED
Waverley Council

Application No: DA-94/2022

Alterations and Additions to Existing Residence

458 Bronte Road, Bronte NSW 2024

DA Sheet List					
Sheet Number	Sheet Name	Current Revision			
DA000	Title Page	В			
DA001	BASIX Commitments	В			
DA002	Site Plan + Site Analysis Plan	С			
DA003	Setback Analysis (Existing Neighbour)	В			
DA004	Setback Analysis (Proposed Neighbour)	В			
DA005	Waste, Erosion + Sediment Control Plan	В			
DA100	Lower Ground Floor Plan	С			
DA101	Ground Floor Plan	В			
DA102	First Floor Plan	В			
DA106	Roof Plan	В			
DA200	South (street) Elevation	В			
DA201	West Elevation	В			
DA202	North Elevation	С			
DA203	East Elevation	В			
DA204	North (Garage) Elevation	В			
DA301	Section 1	С			
DA302	Section 1A	С			
DA303	Section 2	В			
DA304	Section 3	С			
DA305	Pool Plan + Section	С			
DA307	Streetscape Analysis	В			
DA355	Excavation Plan	В			
DA400	Landscape Plan	С			
DA401	GFA Plans	В			
DA405	Green Roof Statement	В			
DA425	Height Plane Analysis	С			
DA450	Schedule of Finishes	В			
DA500	Shadow Diagrams - Winter 9am	В			
DA501	Shadow Diagrams - Winter 12pm	В			
DA502	Shadow Diagrams - Winter 3pm	В			





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Boylan Baud

458 Bronte Road, Bronte NSW 2024

137

Project number

 Revisions

 No.
 Description
 Date

 A
 For DA
 03.03.2022

 B
 For DA
 02.08.2022

Client

Krew Boylan and Andrew Baud

02.08.2022

Drawing Number:

**DA000** 

Issue B

Title Page

ale @ A3

Drawn by:

Drawing:

DL Checked byDF & MB

Page 288 of 618



Building Sustainahilltu Index www basiy new gov a

Alterations and Additions

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this conflictate, or in the commitments, have the meaning given by the document entitled "BASIX Attentions and Addition Definitions" dated 60 (1/2017) published by the Department. This document is

This certificate is a revision of purificate number A446630 todged with the consent authority or certifier on 21 Mar 2022 with application DA-94/2022

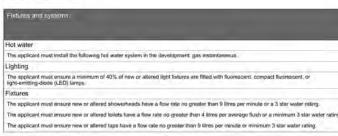
confidence, contains with the recommends of Schill C 2A, 4A or 6A of the Environmental Purel. Assessment Regulator 2000

Planning, Industry 5.



Certificate Prepared by (please complete before submitting to Com-	of or PCA
Name / Company Name: CM Studio	
ABN (if applicable): 158240996	

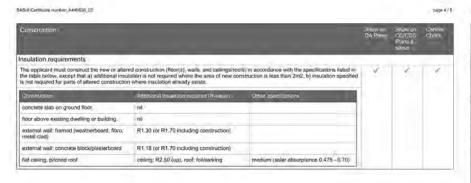




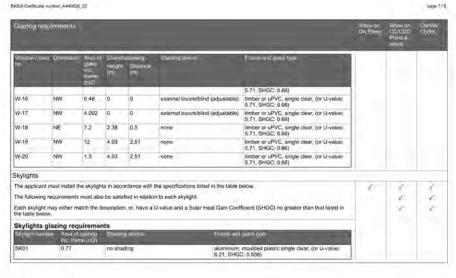
## RECEIVED Waverley Council

Application No: DA-94/2022

Date Received: 20/09/2022



nna, industry & Environment	Matterny Statistics and in Indian seems towns comp store as



Glazing re	quirement:	5					Show on DA Plants	Show on OC/CDC Plans & specs	Genille Gheek
Windows a	and glazed	doors							_
The applicar Relevant ov	nt must instal ershadowing	the window specification	rs, glazed ns must be	doors and s satisfied fo	hading devices, in accorda r each window and glazed	nce with the specifications listed in the table below. door.	4	8	1
The followin	g requiremen	nts must also	be satisfi	ed in relatio	n to each window and glaz	ed door.		1	1
have a U-va	alue and a So	lar Heat Gai	n Coefficia	ent (SHGC)		ar or toned glass may either match the description, or, or the table below. Total system U-values and SHGCs conditions.		1	1
have a U-va must be cale	alue and a So culated in acc	tar Heat Gai cordance wit	n Coefficie h National	ent (SHGC) Fenestratio	no greater than that fisted i	r gapiclear glazing, or foned/air gapiclear glazing must in the table below. Total system U-values and SHGCs onditions. The description is provided for information		N.	Ŷ
For projection	ons described	in milimetr	es, the lea	iding edge o	f each eave, pergola, vera than 2400 mm above the s	ndah, balcony or awning must be no more than 500 mm.	-1	.2	4
Pergolas wit	th polycarbon	ate roof or a	imilar tran	slucent mat	erial must have a shading	coefficient of less than 0.35.		10	4
External lou	vies and blin	de must fully	snade th	e window or	glazed door beside which	they are situated when fully drawn or closed:		-27	7
					e window or glazed door a ens must not be more than	bove which they are situated, unless the pergola also 50 mm.		V.	
	wing buildings the 'overshad				ht and dislance from the co	entre and the base of the window and glazed door, as	v	4	8
Windows	and glaze	d doors g	lazing r	equireme	nts				
	oor Direction				Shearing device	From a militaries type			
		glassi ins ftame im2)	Hs gnt im)	Distance (m)					
W-01	NE	10.54	1.6	1.8	none .	Uniber or uPVC, single Lo-Tsol low-e, (U-value: 3.7, SHGC: 0.36)			
W-02	NE	8.586	1.6	1.8	none	timber or uPVC, single Lo-Tsol low-e,			

Lugend	
In these commitments, *app	licant" means the person carrying out the development.
	is "y" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a to be lodged for the proposed development).
	ra "v" in the "Show on OCICDC plans & specia" column must be shown in the plans and specifications accompanying the application for a construction operant confined to the proposed development.
Commitments identified with development may be issued	a a ",," in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final cocupation certificate for the

| Cartifler Check | Show on DA Plans | Show on DA P

# AMENDED PLANS



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Project:

Boylan Baud

Project number

458 Bronte Road, Bronte NSW 2024

137

No.	Description	Date
Α	For DA	03.03.2022
В	For DA	02.08.2022

Client:

Date

Krew Boylan and Andrew Baud

Issue B

Drawing Number: DA001

02.08.2022

rawing:

**BASIX Commitments** 

Scale

@ A3

Drawn by:

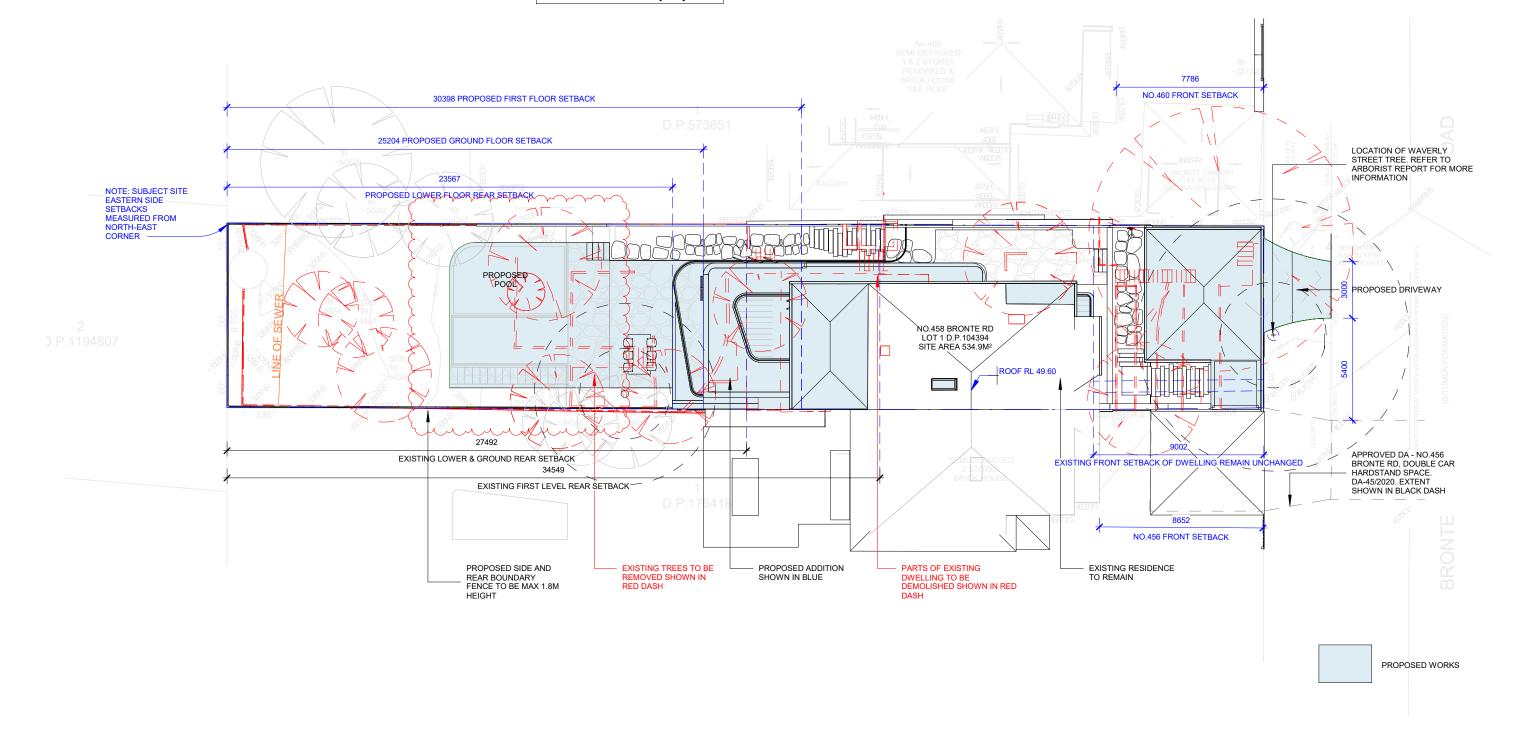
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Application No: DA-94/2022

Date Received: 20/09/2022





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Project:

**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

Project number

137

Revisions A For DA 03.03.2022 B For DA 02.08.2022 C For DA

Krew Boylan and Andrew Baud

20.09.2022

Drawing Number: **DA002** 

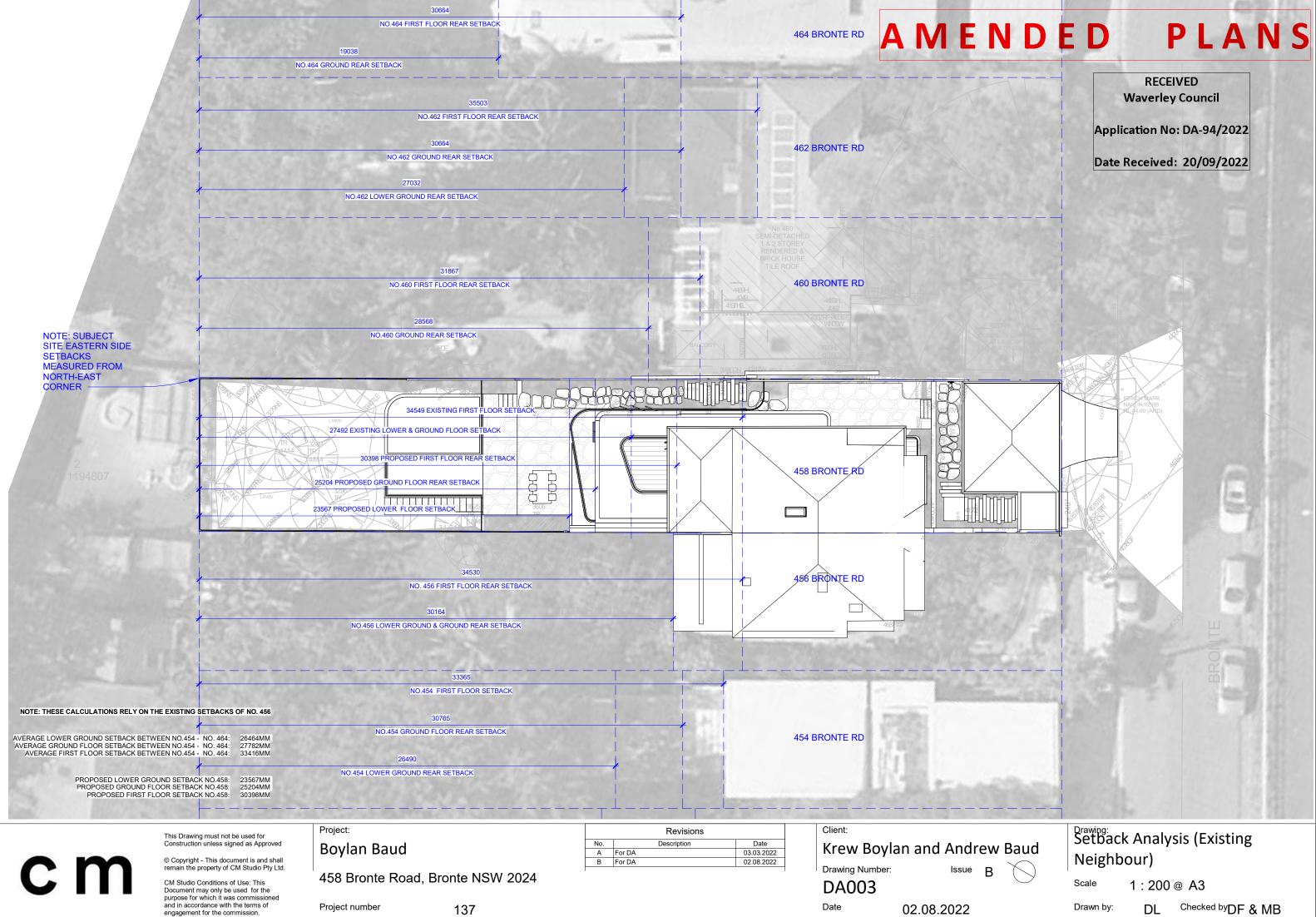
Date

Site Plan + Site Analysis Plan

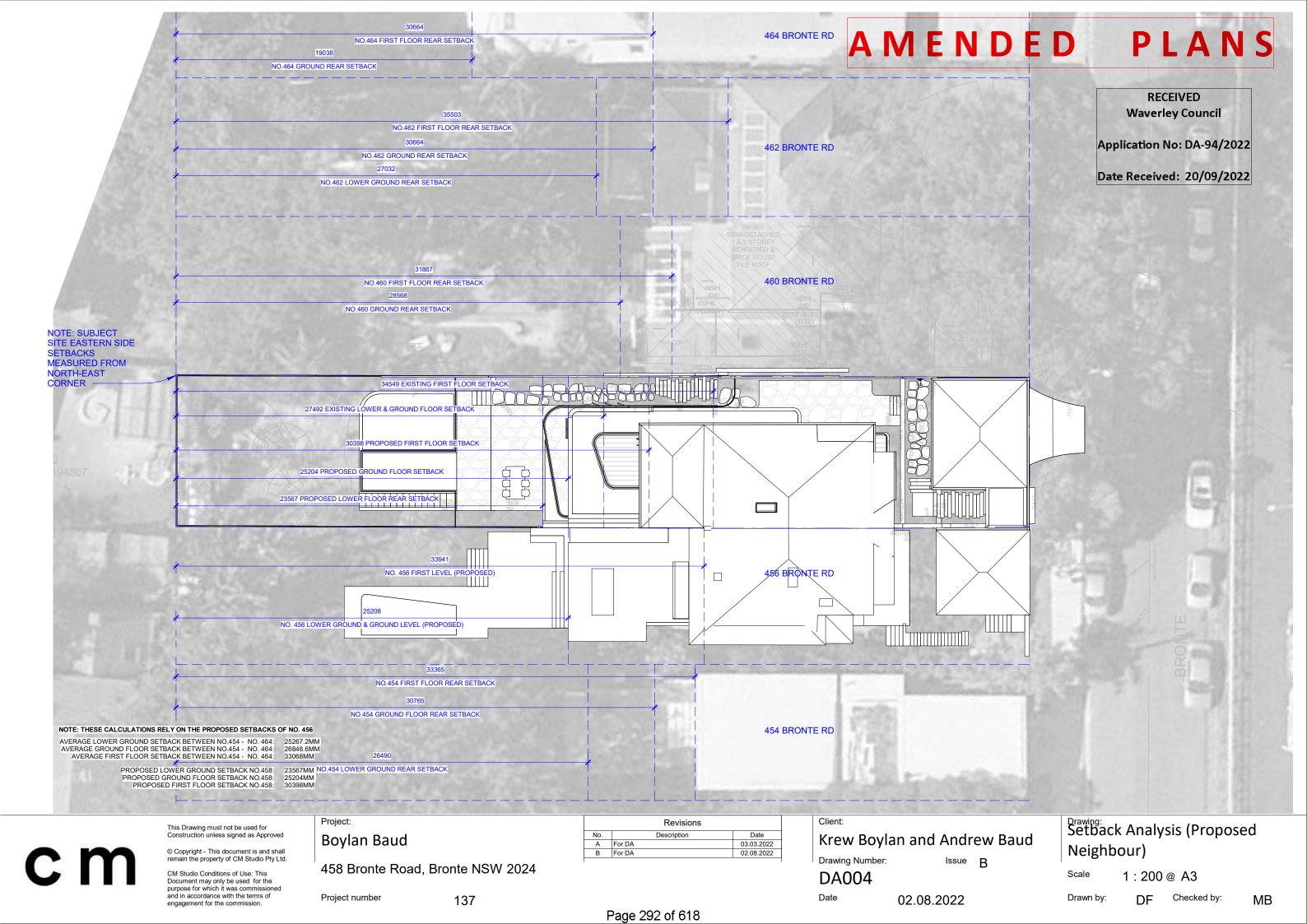
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Drawn by: DL Checked byDF & MB

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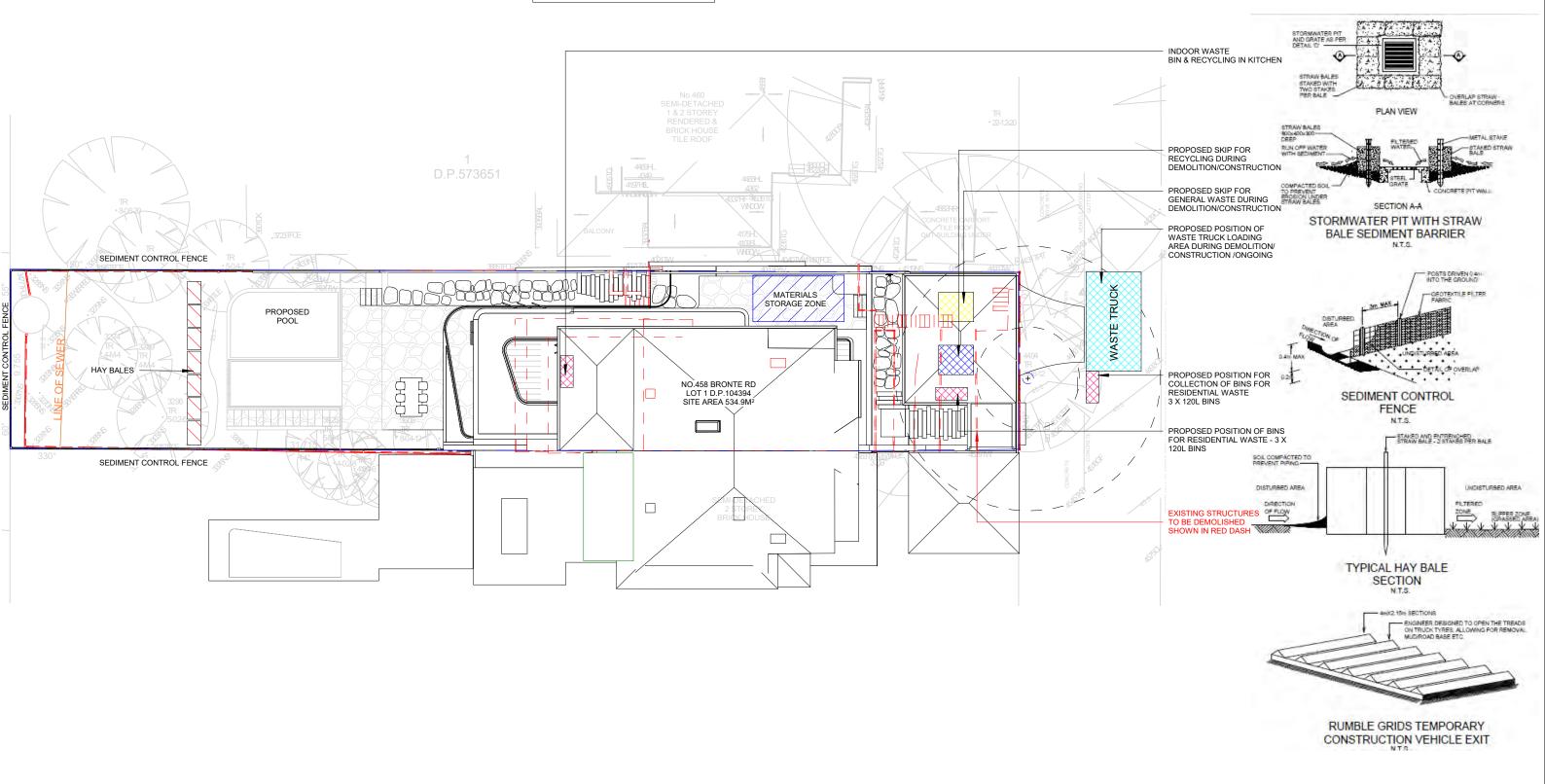
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Application No: DA-94/2022

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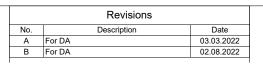
Project:

Boylan Baud

458 Bronte Road, Bronte NSW 2024

Project number

137



Client

Krew Boylan and Andrew Baud

02.08.2022

Drawing Number:

DA005

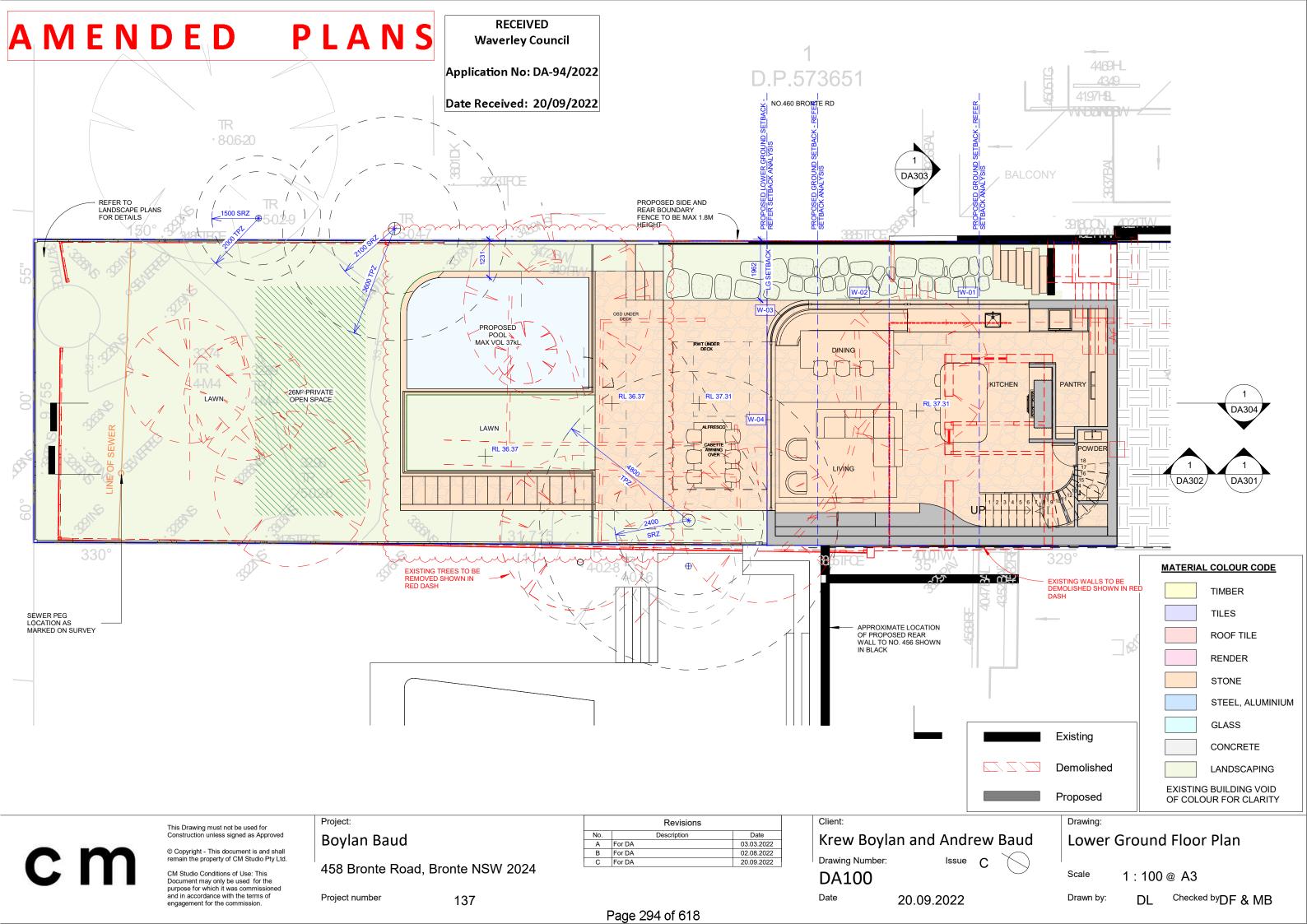
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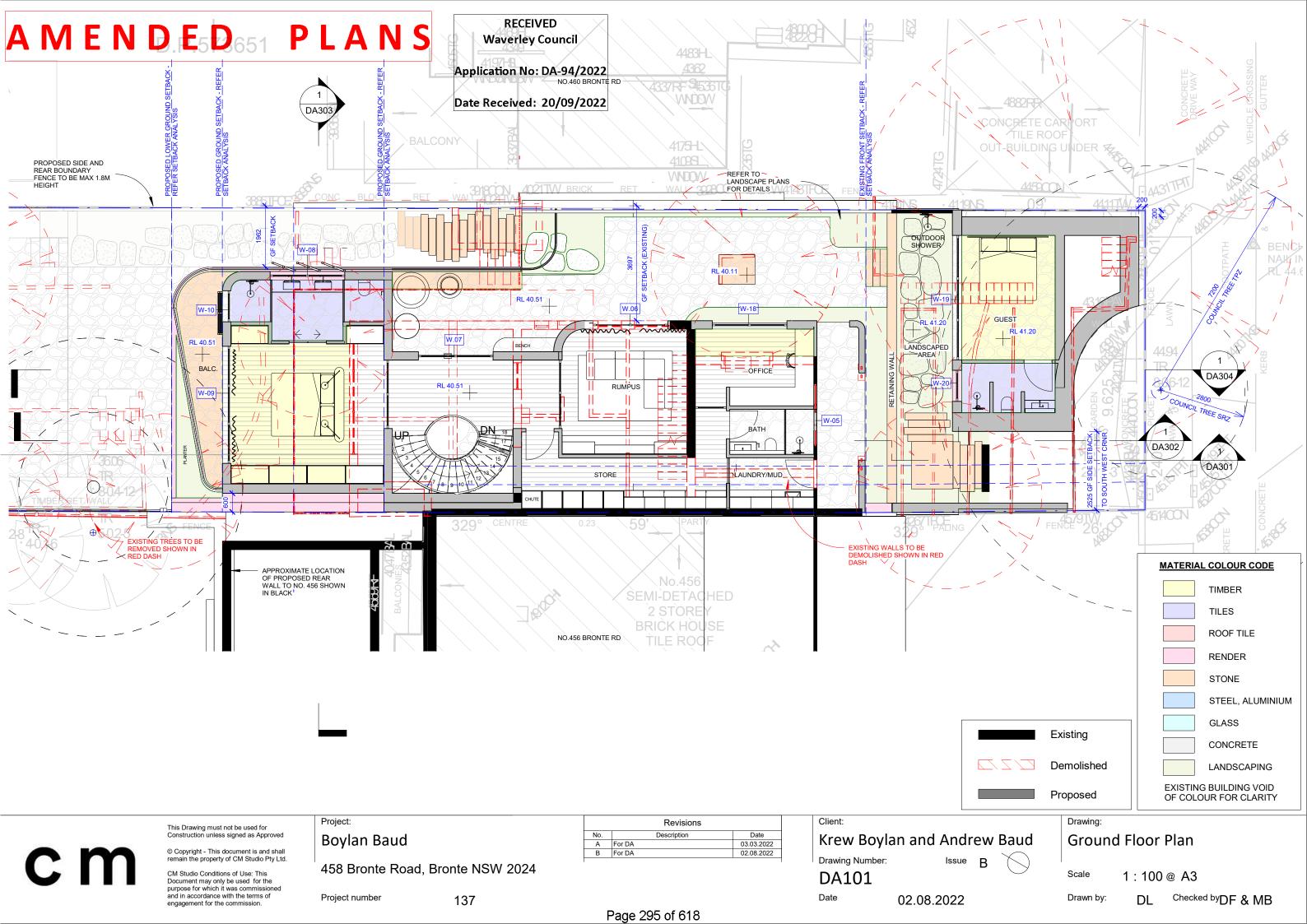
Waste, Erosion + Sediment Control Plan

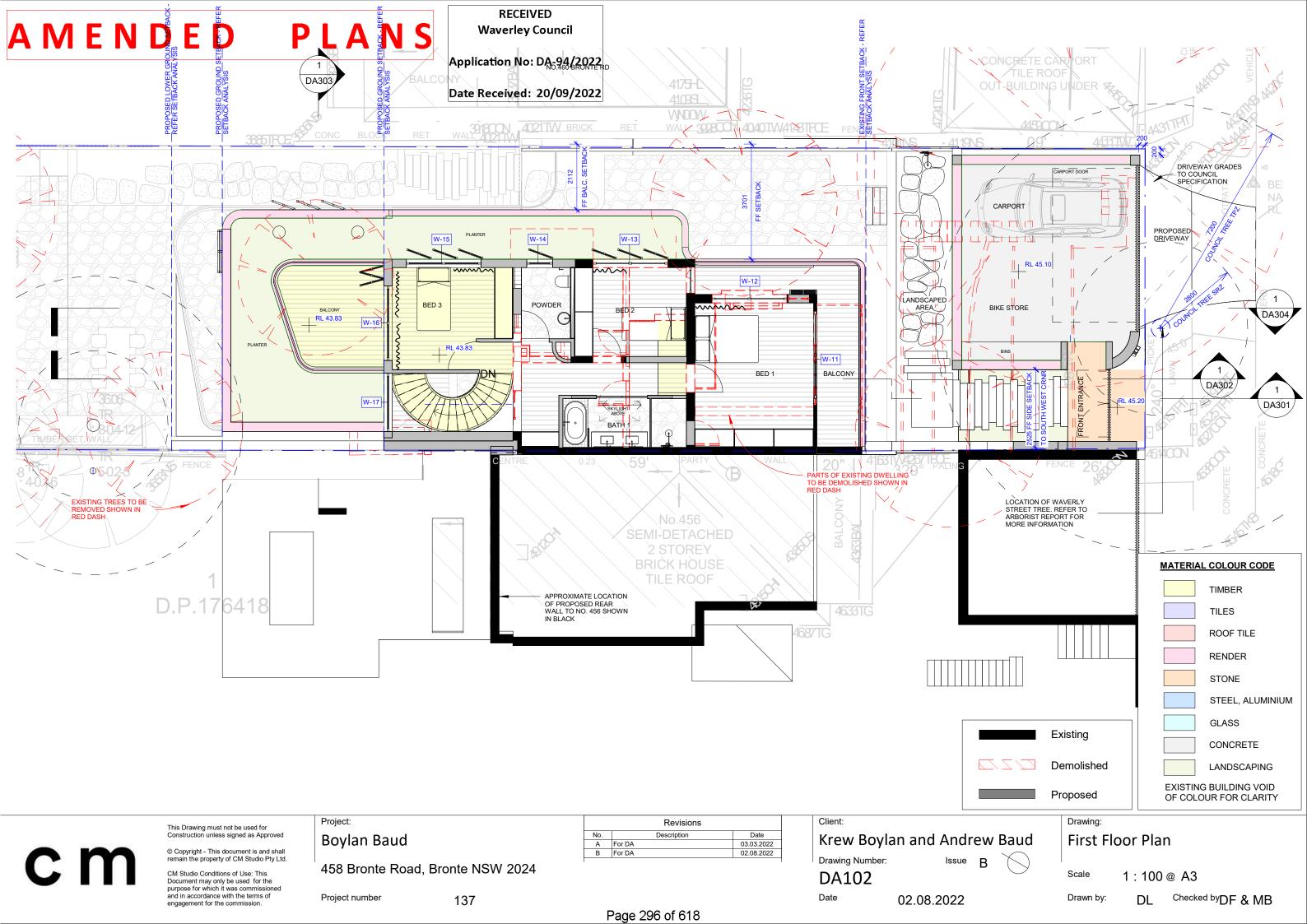
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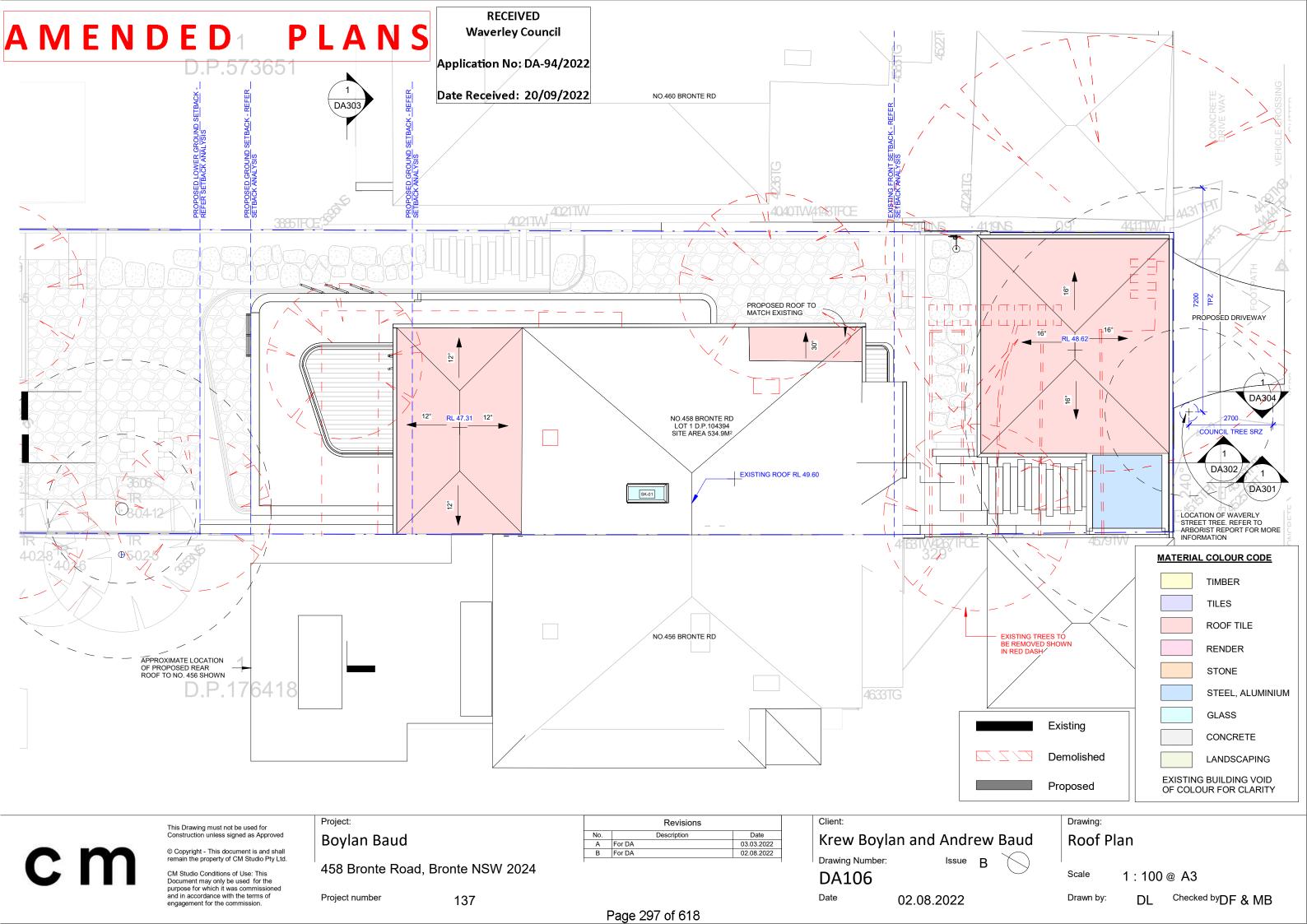
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#### **RECEIVED MATERIAL COLOUR CODE** Existing **PLANS** AMENDED **Waverley Council** TIMBER Demolished Application No: DA-94/2022 **TILES** Proposed **ROOF TILE** Date Received: 20/09/2022 RENDER STONE STEEL, ALUMINIUM **GLASS** CONCRETE LANDSCAPING **EXISTING BUILDING VOID** OF COLOUR FOR CLARITY 8.5M MAX BUILDING NO. 458 BRONTE RD NO. 458 BRONTE RD (в 7M MAX NO. 456 BRONTE RD NO 460 BRONTE RD WALL HEIGHT NO. 456 BRONTE RD NO. 460 BRONTE RD ELEVATED CARPORT FLOOR TO AVOID DISPLANTION TO COUNCIL EXISTING ROOF RL 49.60 **EXISTING ROOF RIDGE** CARPORT RL 48.82 RL 49.60 8.5M MAX BUILDING POWER POLE RL 47.96 DRIVEWAY ,7M MAX GARAGE DOOR & FRONT GATE WALL HEIGHT PROPOSED ROOF TO PAINTED WHITE LOCATION OF GARAGE TO NO. 456 FRONT FENCE TO BE DEMOLISHED SHOWN IN RED GLAZING AND SCREENING CARPORT FLOOR AS PER BASIX REQUIREMENTS; ALL SLIDING SCREENING TO GROUND LINE COMPLETELY FIRST FLOOR SRZ OF COUNCIL STREET TREE RL 43.83 **GROUND FLOOR** GROUND LINE RL 40.51 PLANTERS/-DA - South Street Elevation DA - South Facade Elevation 1 Project: Revisions This Drawing must not be used for Construction unless signed as Approved Krew Boylan and Andrew Baud South (street) Elevation **Boylan Baud** A For DA 03.03.2022 © Copyright - This document is and shall B For DA nain the property of CM Studio Pty Ltd. Drawing Number: Issue 458 Bronte Road, Bronte NSW 2024

Page 298 of 618

**DA200** 

02.08.2022

Date

1:100@ A3

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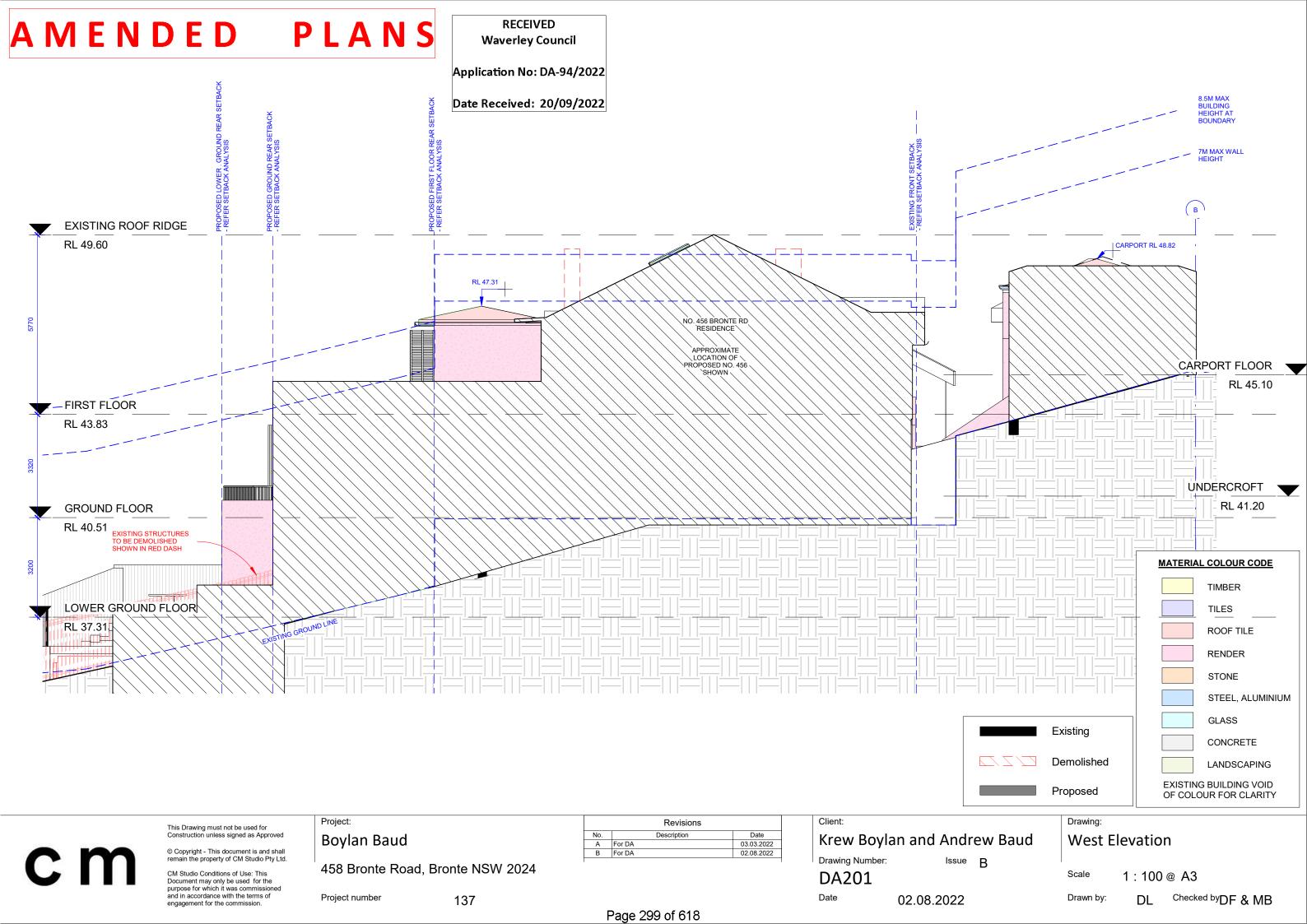
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137

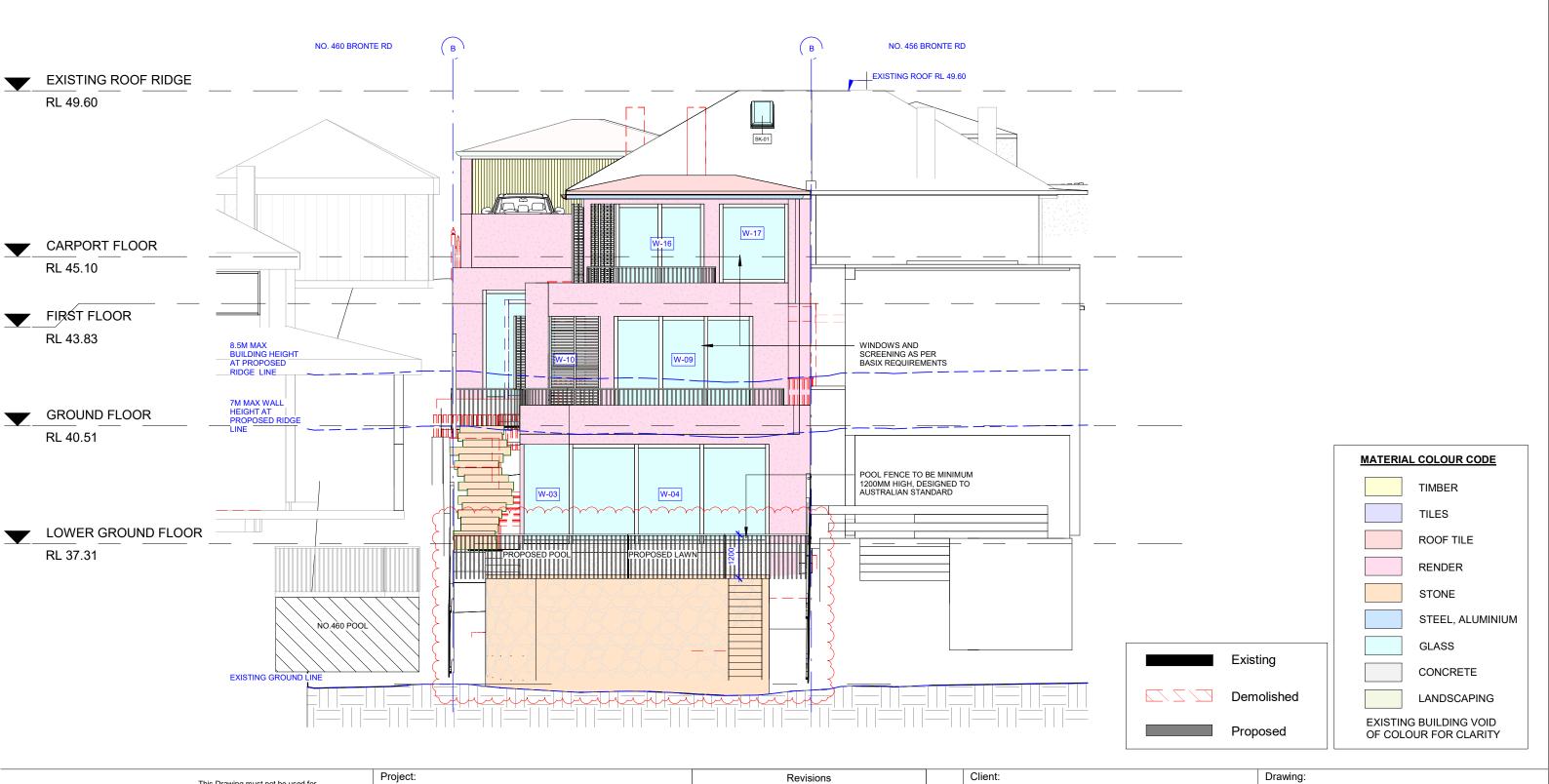


### PLANS AMENDED

**RECEIVED Waverley Council** 

Application No: DA-94/2022

Date Received: 20/09/2022



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**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

Project number

137

03.03.2022 02.08.2022

Krew Boylan and Andrew Baud Drawing Number:

20.09.2022

**DA202** 

Date

Issue C

North Elevation

1:100@ A3

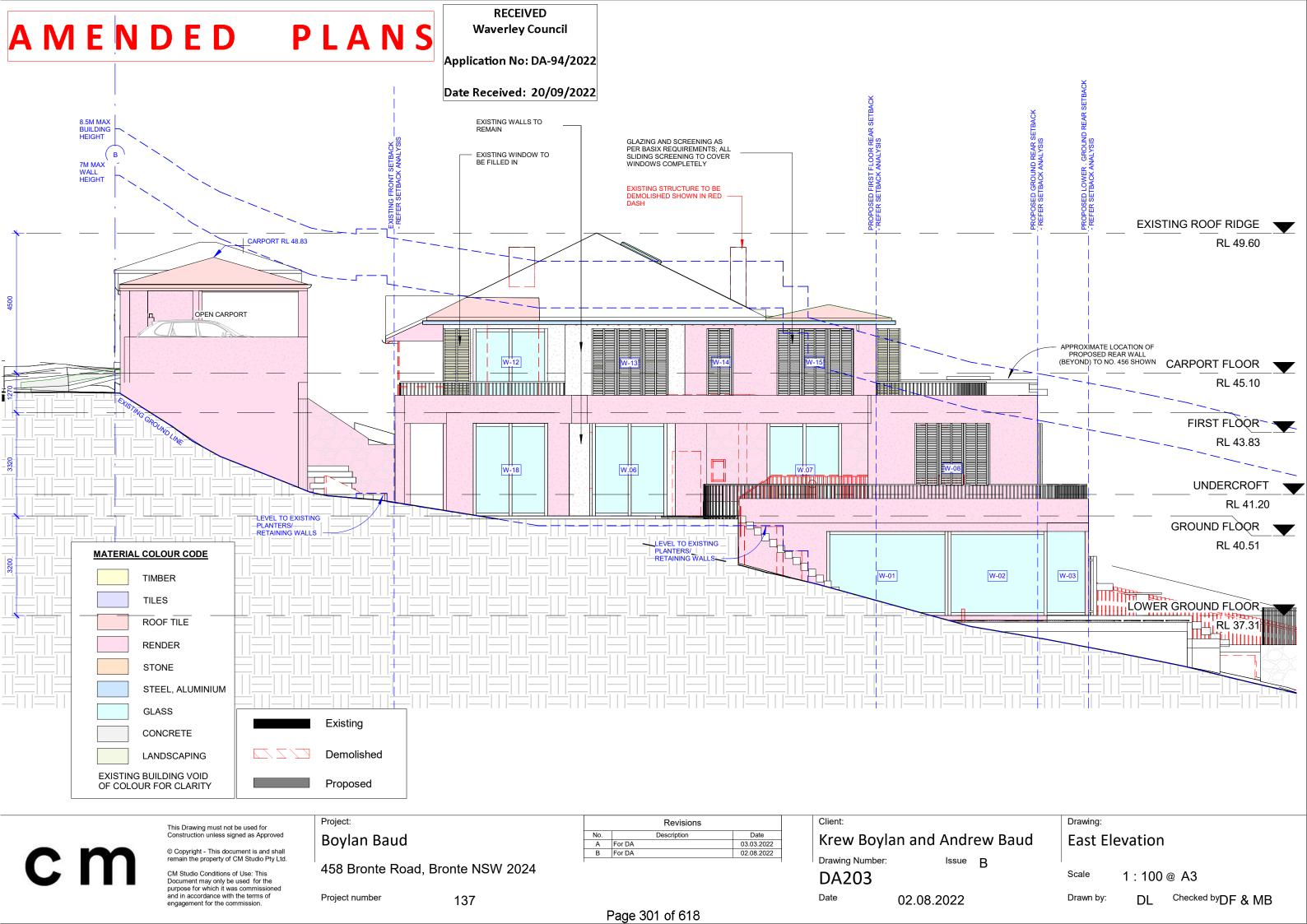
Drawn by: DL Checked byDF & MB

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A For DA

B For DA

C For DA

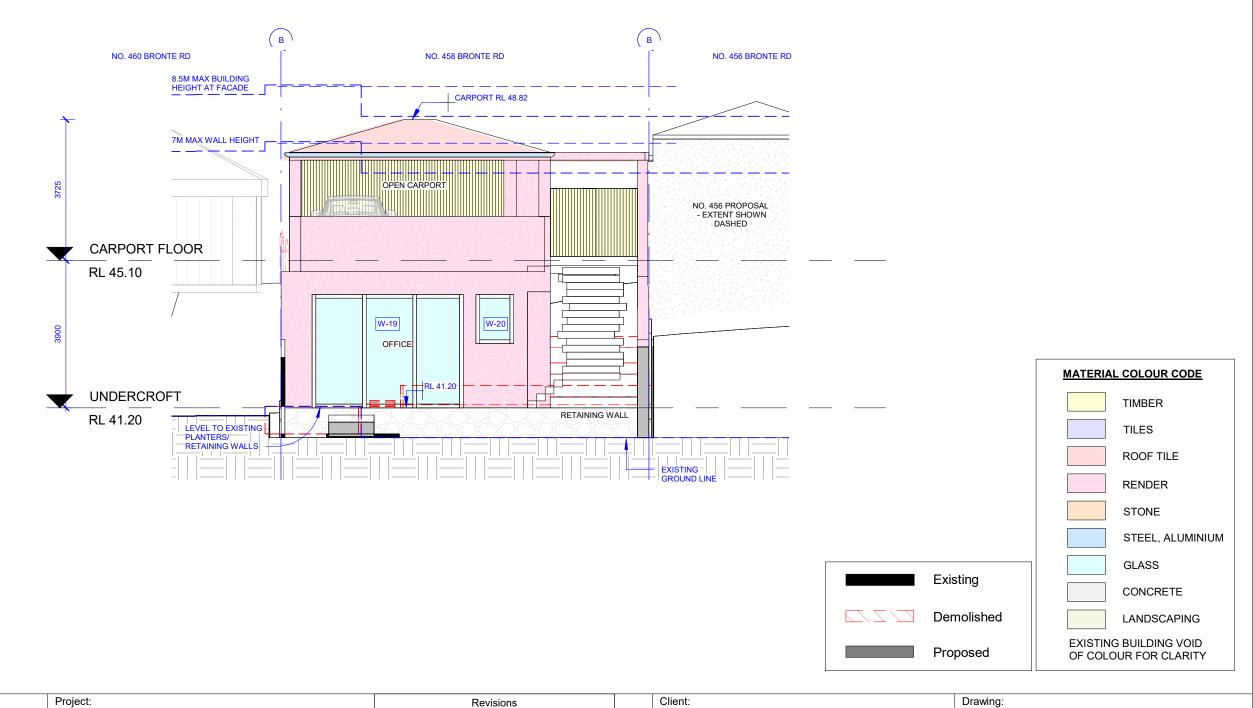


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**RECEIVED Waverley Council** 

Application No: DA-94/2022

Date Received: 20/09/2022





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Project:

**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

Project number

137

Date

03.03.2022

Krew Boylan and Andrew Baud

02.08.2022

Issue B

Drawing Number:

**DA204** 

North (Garage) Elevation

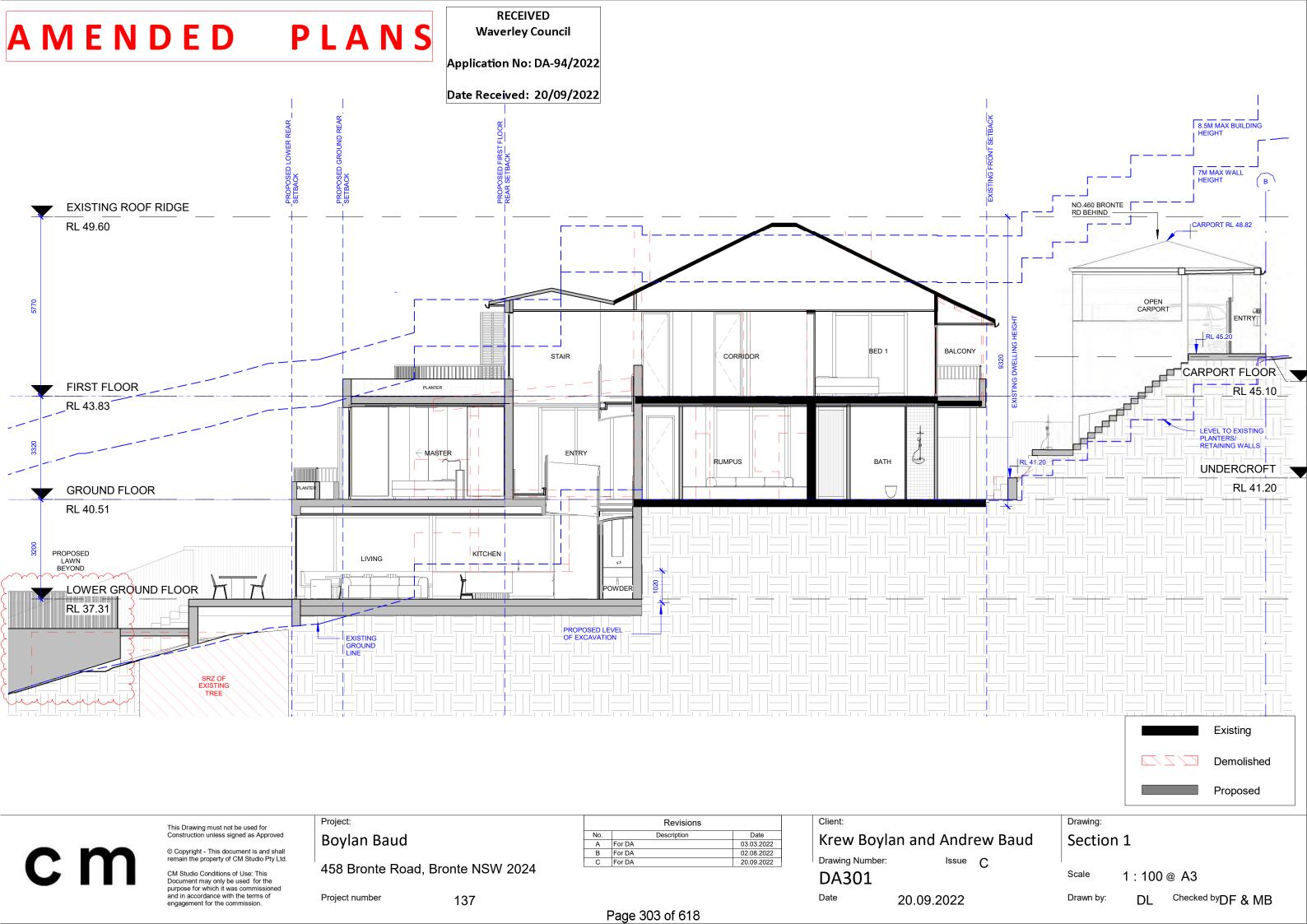
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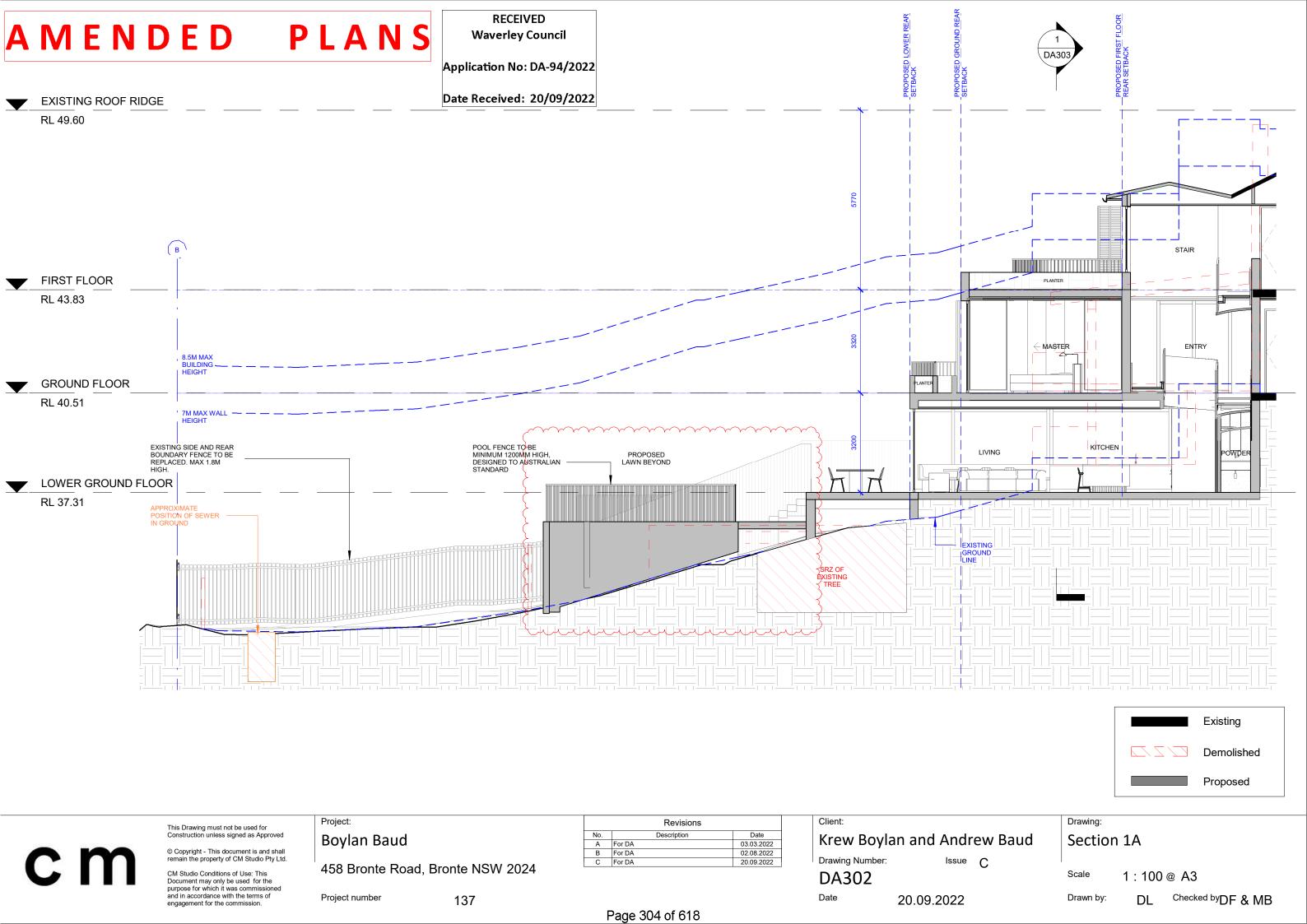
Drawn by:

DL Checked byDF & MB

A For DA

B For DA

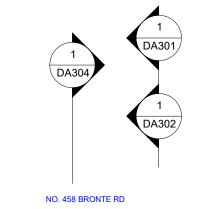


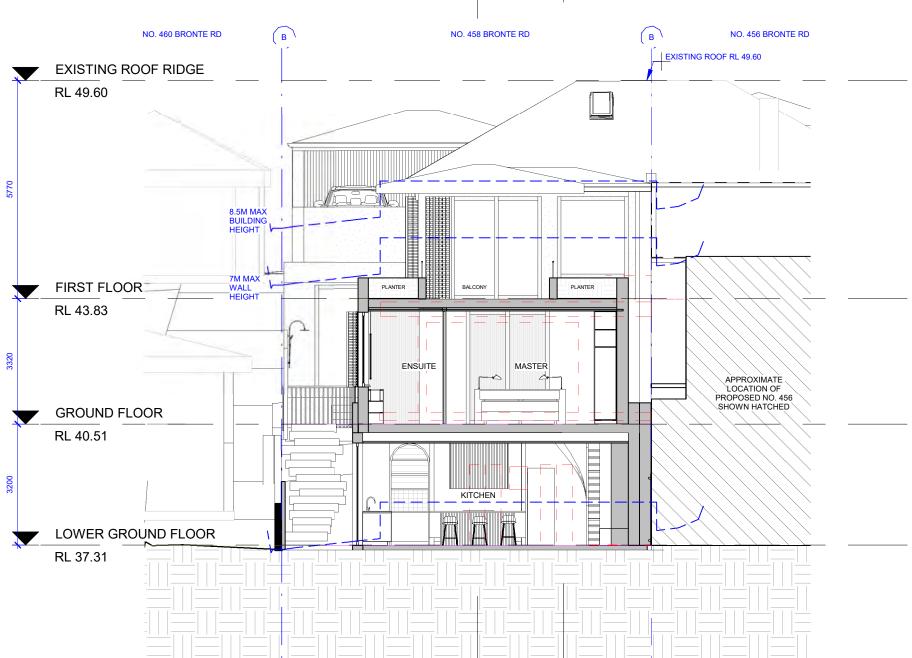


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Waverley Council

Application No: DA-94/2022

Date Received: 20/09/2022









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Project:

Boylan Baud

458 Bronte Road, Bronte NSW 2024

Project number 137

	Revisions	
No.	Description	Date
Α	For DA	03.03.2022
В	For DA	02.08.2022
	1	

Krew Boylan and Andrew Baud
Drawing Number: Issue B

DA303

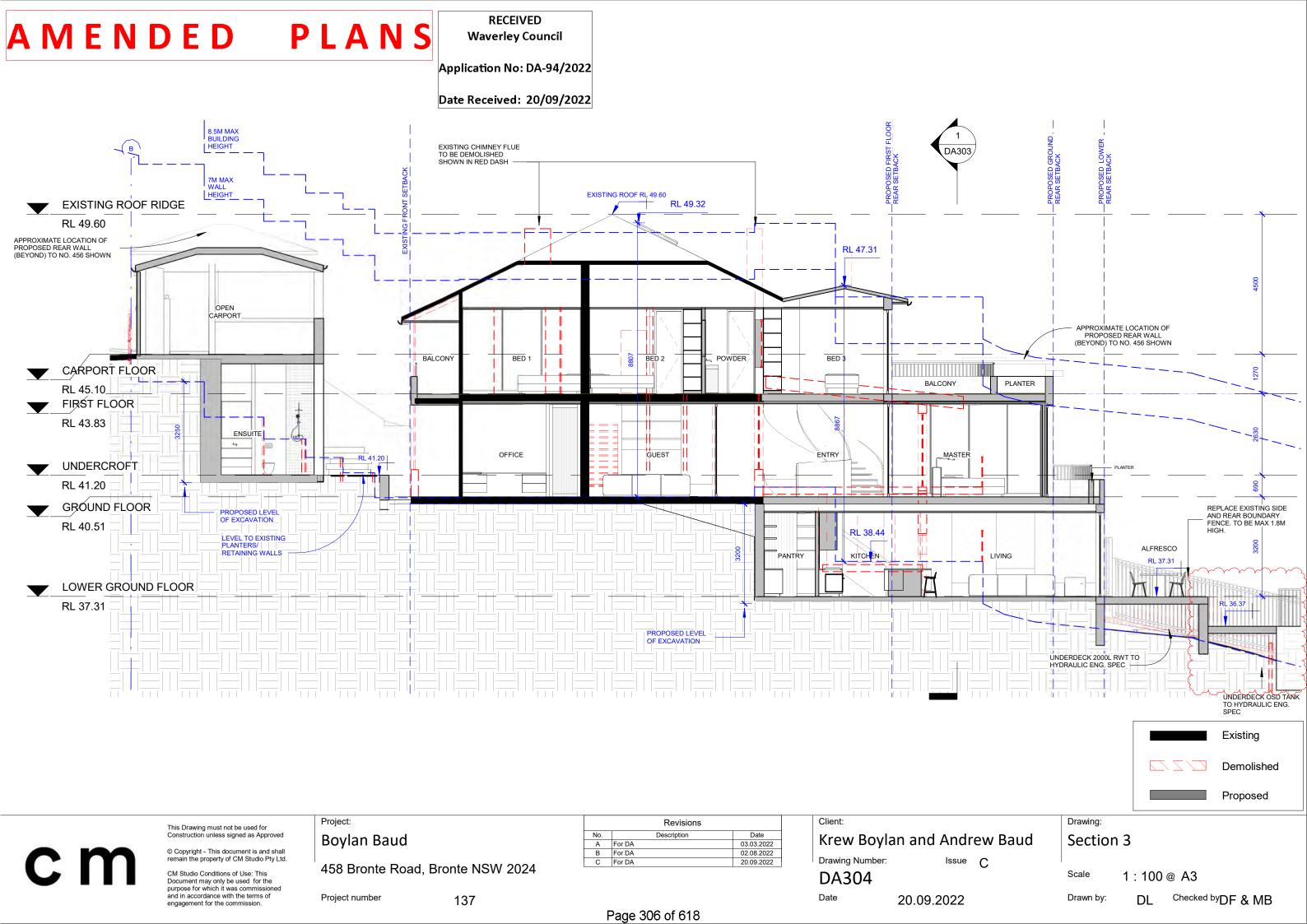
Date 02.08.2022

Drawing:

Section 2

Scale 1:100 @ A3

Drawn by: DL Checked byDF & MB

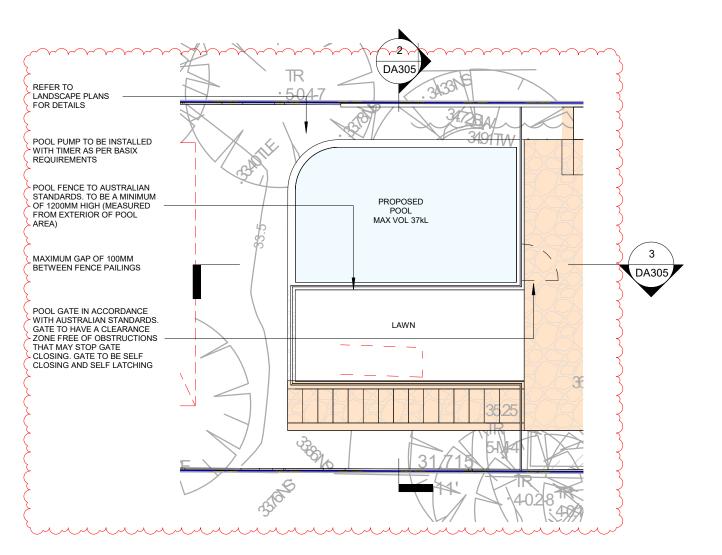


## PLANS AMENDED

**RECEIVED Waverley Council** 

Application No: DA-94/2022

Date Received: 20/09/2022



DA - Pool Plan 1:100

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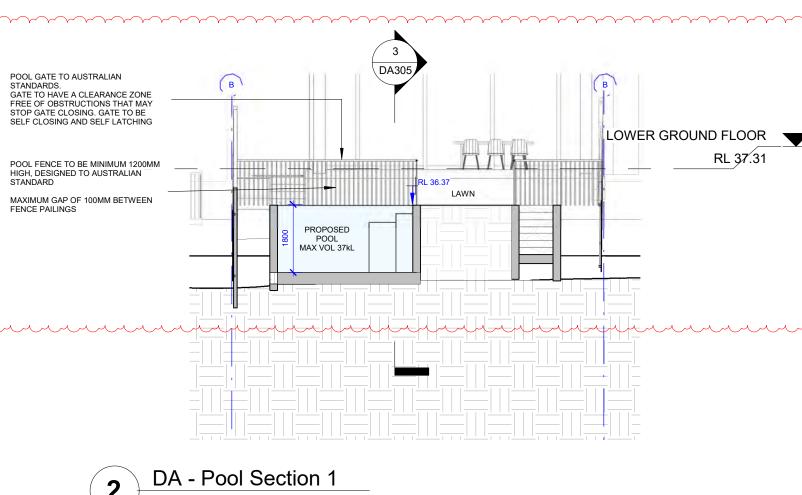
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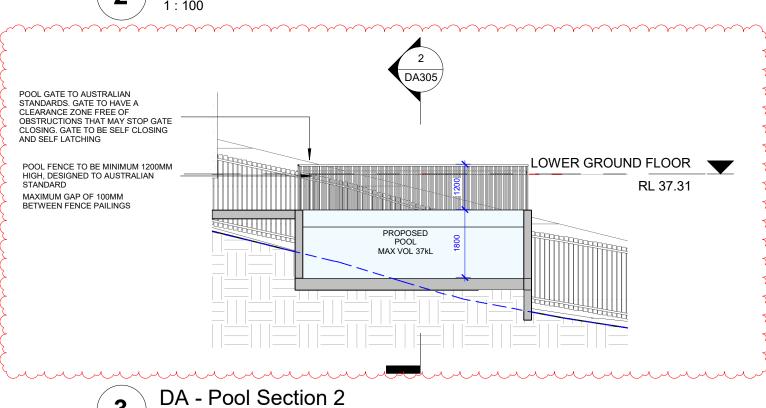
**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

Project number

137





Revisions 03.03.2022 02.08.2022 Drawing Number: Issue

Date

1:100

Krew Boylan and Andrew Baud

**DA305** 

20.09.2022

Drawing: Pool Plan + Section

1:100@ A3

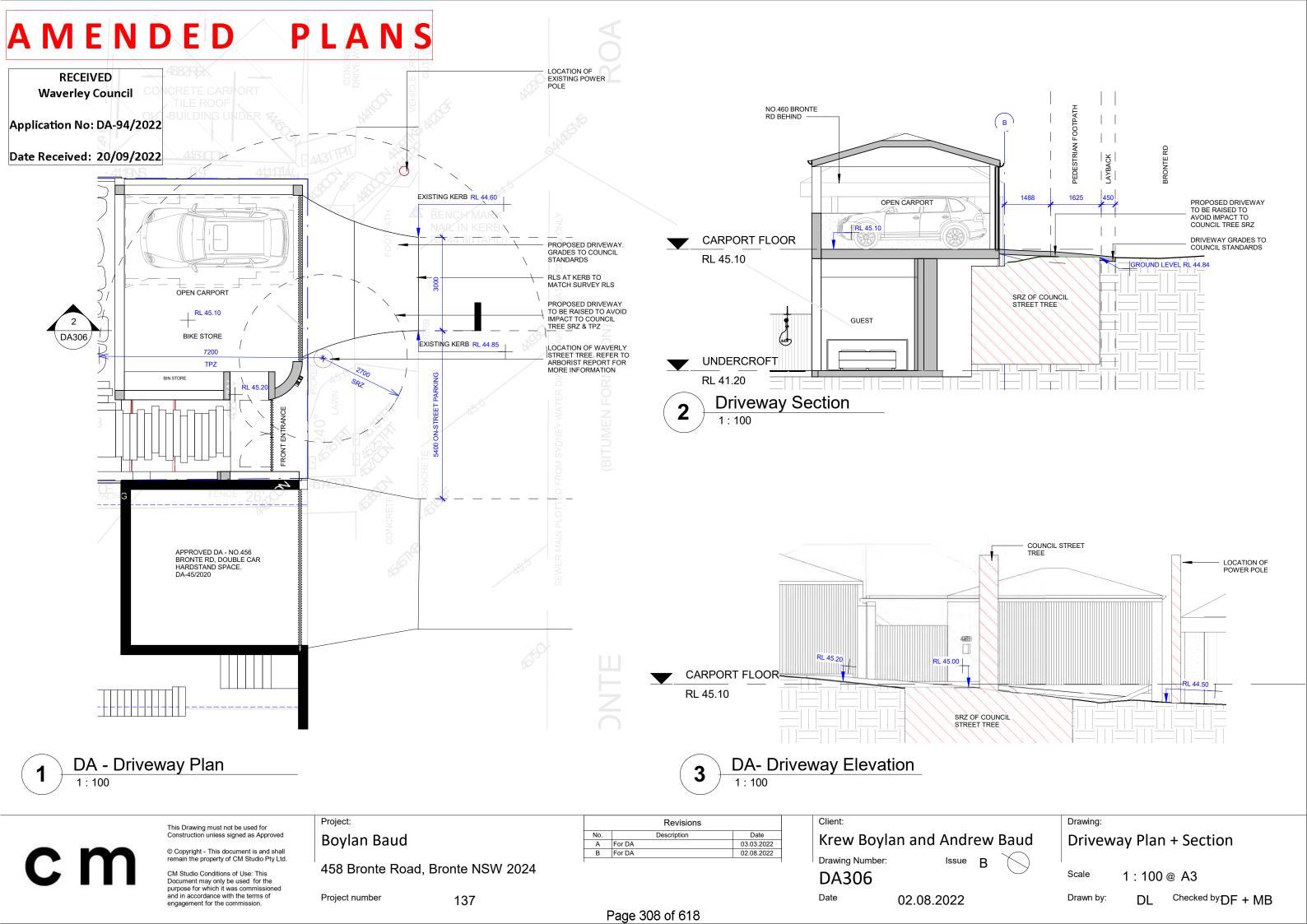
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A For DA

B For DA

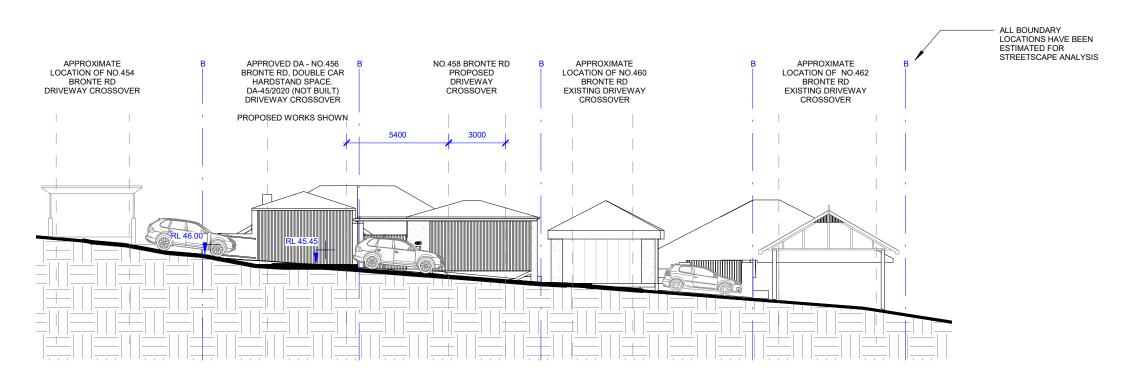
C For DA



### **RECEIVED** AMENDED **PLANS Waverley Council** Application No: DA-94/2022 ALL BOUNDARY LOCATIONS HAVE BEEN ESTIMATED FOR STREETSCAPE ANALYSIS Date Received: 20/09/2022 APPROVED DA - NO.456 BRONTE RD, DOUBLE CAR HARDSTAND SPACE. DA-45/2020 (NOT BUILT) APPROXIMATE LOCATION OF NO.460 BRONTE RD EXISTING DRIVEWAY APPROXIMATE LOCATION OF NO.462 BRONTE RD EXISTING DRIVEWAY NO.458 BRONTE RD EXISTING STREET BOUNDARY APPROXIMATE LOCATION OF NO.454 BRONTE RD DRIVEWAY CROSSOVER DRIVEWAY CROSSOVER

DA- Street Analysis Elevation- Existing

1:200



DA- Street Analysis Elevation- Proposed

1:200

c<sub>m</sub>

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Project:

**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

137

Project number

	Revisions	
No.	Description	Date
Α	For DA	03.03.2022
В	For DA	02.08.2022

Krew Boylan and Andrew Baud

Drawing Number:

DA307
Date

Drawing:

Drawn by:

Streetscape Analysis

Scale 1:200 @ A3

02.08.2022

Issue

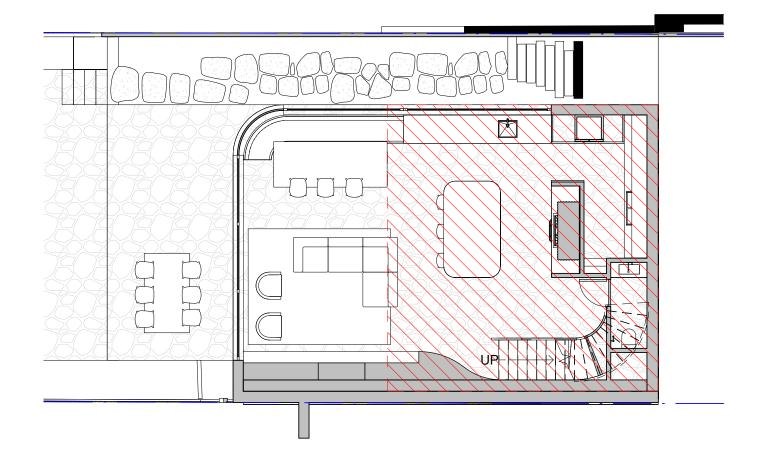
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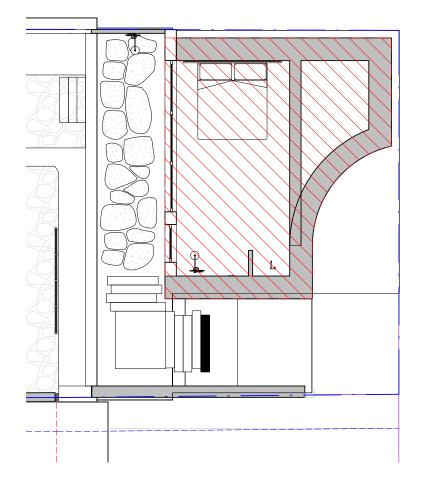
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Waverley Council

Application No: DA-94/2022

Date Received: 20/09/2022









## DA - Excavation Lower Ground Plan

1:100

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Project:

Boylan Baud

458 Bronte Road, Bronte NSW 2024

Project number

137



## DA - Excavation Ground Floor Plan

1:100

Client:

Krew Boylan and Andrew Baud

Drawing Number: Issue B

DA355

02.08.2022

Drawing:

**Excavation Plan** 

Scale 1:100 @ A3

Drawn by: DL Checked byDF & MB

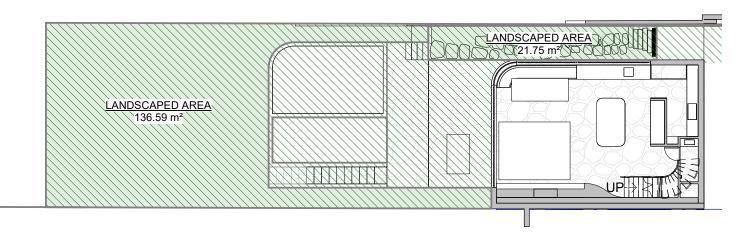
A For DA
B For DA

Revisions

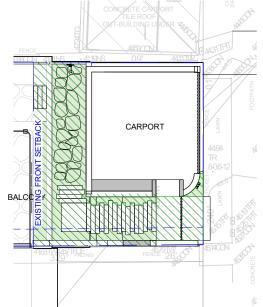
**RECEIVED Waverley Council** 

Application No: DA-94/2022

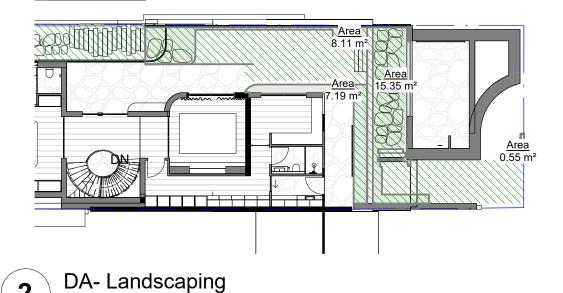
Date Received: 20/09/2022



Lower Ground Floor



DA - Front Landscaping



SETBACK:

LANDSCAPED AREA OPEN SPACE AREA

MINIMUM OPEN SPACE (40%): MINIMUM LANDSCAPE AREA (15%):

PROPOSED OPEN SPACE:

80.235M<sup>2</sup> 313.18M<sup>2</sup> (58.5%) 189.54M<sup>2</sup> (35.4%) PROPOSED PERVIOUS LANDSCAPED AREA:

534.9M<sup>2</sup>

213.96M<sup>2</sup>

SITE AREA WITHIN FRONT SETBACK: MINIMUM OS AREA WITHIN FRONT SETBACK: MINIMUM LANDSCAPING WITHIN FRONT SETBACK:

43.43M<sup>2</sup> (50%) 21.715M2 (50% OF OS)

PROPOSED OS AREA: PROPOSED LANDSCAPE AREA WITHIN FRONT

43.83M<sup>2</sup> (50%)

21.85M2 (50% OF OS)

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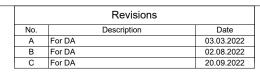
Project:

**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

Project number

137



Date

Krew Boylan and Andrew Baud

20.09.2022

Drawing Number:

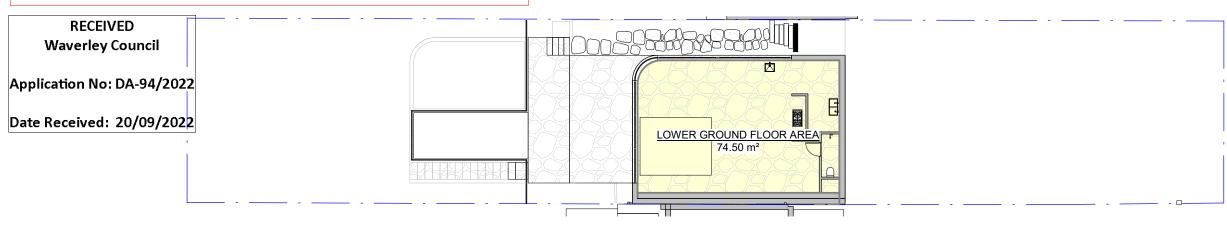
**DA400** 

Landscape Plan

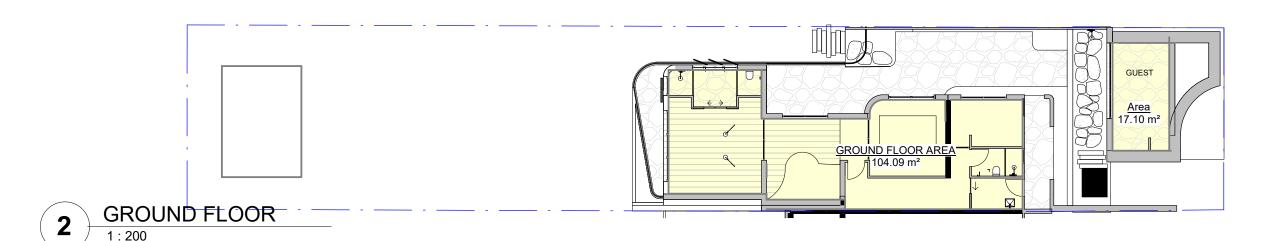
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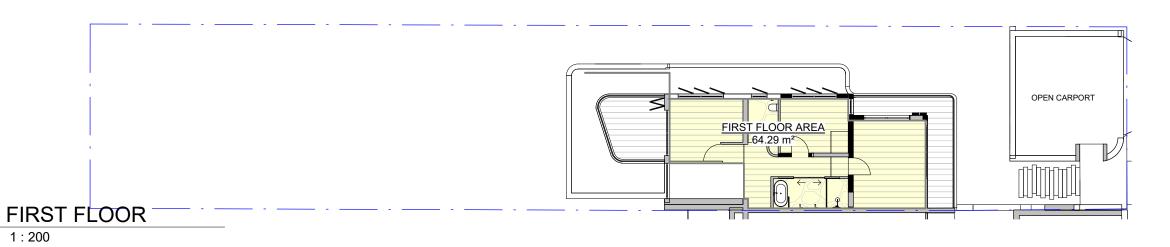
1:200 @ A3

DL Checked by DF & MB Drawn by:



LOWER GROUND FLOOR





Name	Area
GROUND FLOOR AREA	104.09 m <sup>2</sup>
LOWER GROUND FLOOR AREA	74.50 m <sup>2</sup>
FIRST FLOOR AREA	64.29 m <sup>2</sup>
Area	17.10 m <sup>2</sup>
Grand total	259.97 m <sup>2</sup>

SITE AREA: 534.9M<sup>2</sup> PERMISSIBLE FSR (550-534.9) X 0.0011) + 0.5= 0.5166:1 PERMISSIBLE AREA: 267.45M<sup>2</sup> PROPOSED FSR: PROPOSED AREA: 0.486:1 259.97M<sup>2</sup>



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Project:

**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

Project number

137

	Revisions	
No.	Description	Date
Α	For DA	03.03.2022
В	For DA	02.08.2022

Krew Boylan and Andrew Baud

Drawing Number:

Date

Issue B **DA401** 

02.08.2022

Drawing:

**GFA Plans** 

1:200 @ A3

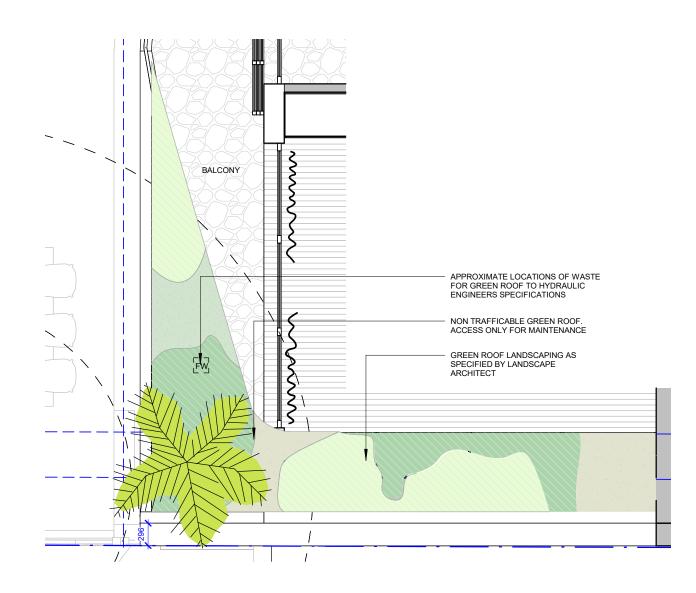
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### PLANS AMENDED

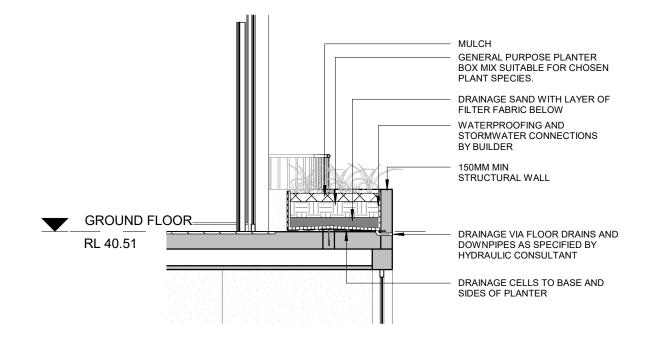
**RECEIVED Waverley Council** 

Application No: DA-94/2022

Date Received: 20/09/2022







#### **GREEN ROOF MAINTENANCE PLAN**

MAINTENANCE OF THE GREEN ROOF OVER THE GARAGE SHOULD BE CARRIED OUT REGULARLY SO TO REMAIN IN GOOD HEALTH AND WEED FREE, MAINTENANCE SHOULD INCLUDE:

- FERTILISING, PEST CONTROL, WEEDING, TRIMMING AND REPLACEMENT OF ANY DEAD PLANTS. - IRRIGATION SHALL BE CHECKED FOR LEAKS TO ENSURE CORRECT USE, ADJUSTED TO EACH SEASON.
- MULCH TO BE REPLENISHED WHEN REQUIRED TO MAINTAIN CONSISTENT DEPTH OF SOIL.
- DRAINAGE ARE TO BE CLEARED AND CHECKED REGULARLY TO ENSURE THEY ARE ALL CLEAR OF MULCH, SOIL AND PLANT LITTER.
- MAINTENANCE WORK SHOULD BE RECORDED TO ENSURE WORK IS BEING CARRIED OUT ON A REGULAR





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**Boylan Baud** 

458 Bronte Road, Bronte NSW 2024

Project number

137

Revisions A For DA 03.03.2022 B For DA

Krew Boylan and Andrew Baud

Drawing Number:

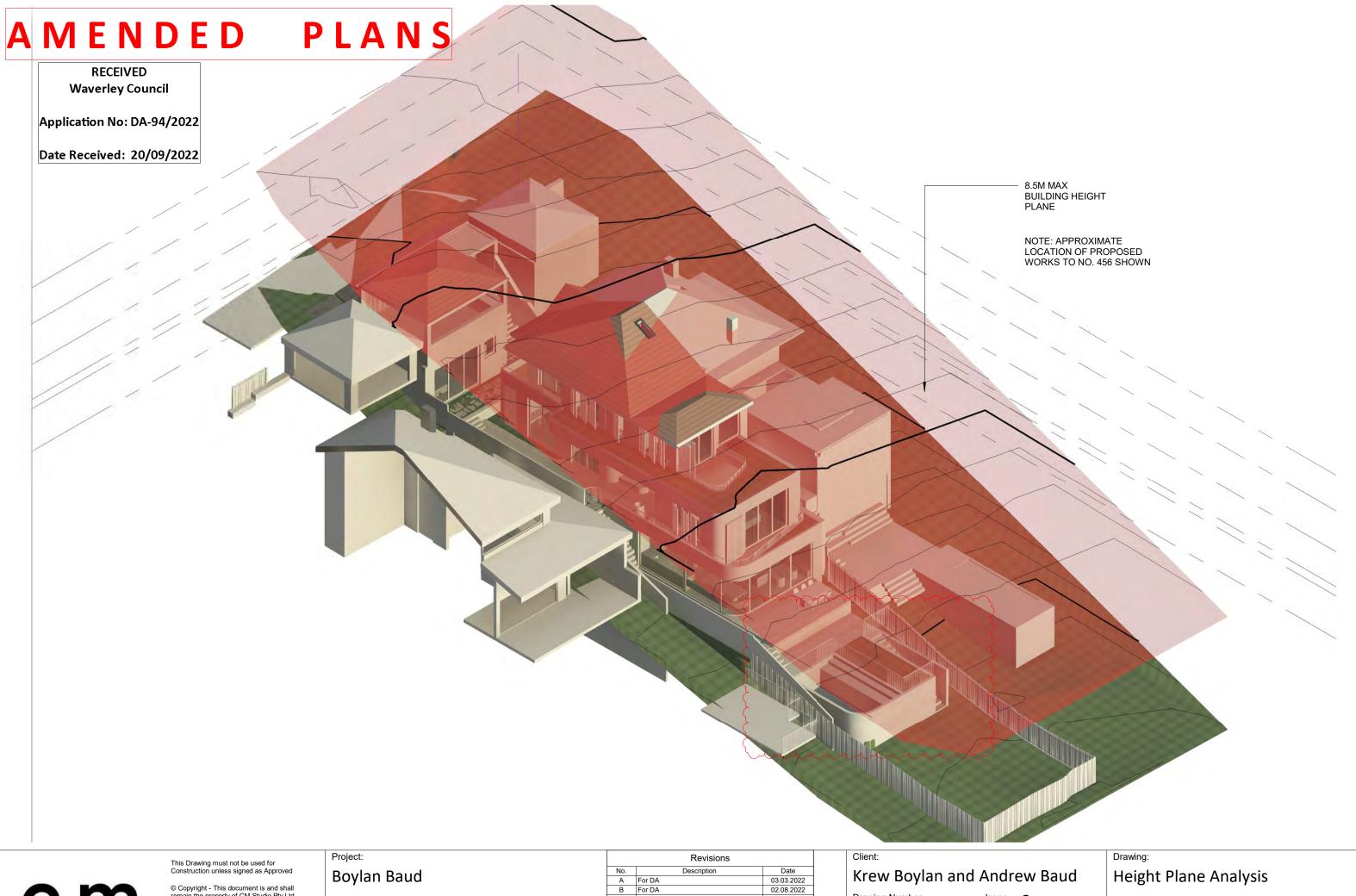
Issue B **DA405** 

**Green Roof Statement** 

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Date Drawn by: DL Checked by DF & MB 02.08.2022

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458 Bronte Road, Bronte NSW 2024

Project number

137

Revisions			
No.	Description	Date	
Α	For DA	03.03.2022	
В	For DA	02.08.2022	
С	For DA	20.09.2022	

Drawing Number:

Issue C

20.09.2022

**DA425** 

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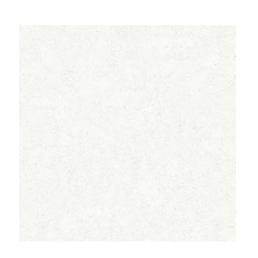
IMAGES ARE INDICITIVE ONLY- COLOURS AND STYLES ARE TBC

MATERIAL COLOUR CODE

RECEIVED Waverley Council

Application No: DA-94/2022

Date Received: 20/09/2022



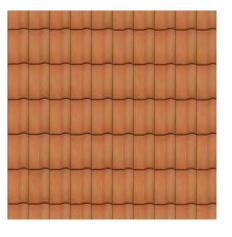
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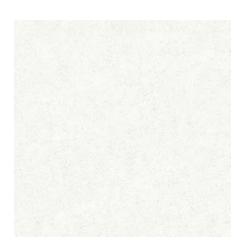
STONE- COLOUR TBC



GLASS



ROOF TILE



TIMBER (PAINTED WHITE)



TIMBER (FLOORBOARDS)



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Α	For DA	03.03.2022
В	For DA	02.08.2022

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Krew Boylan and Andrew Baud

Issue B

Drawing Number:

DA450

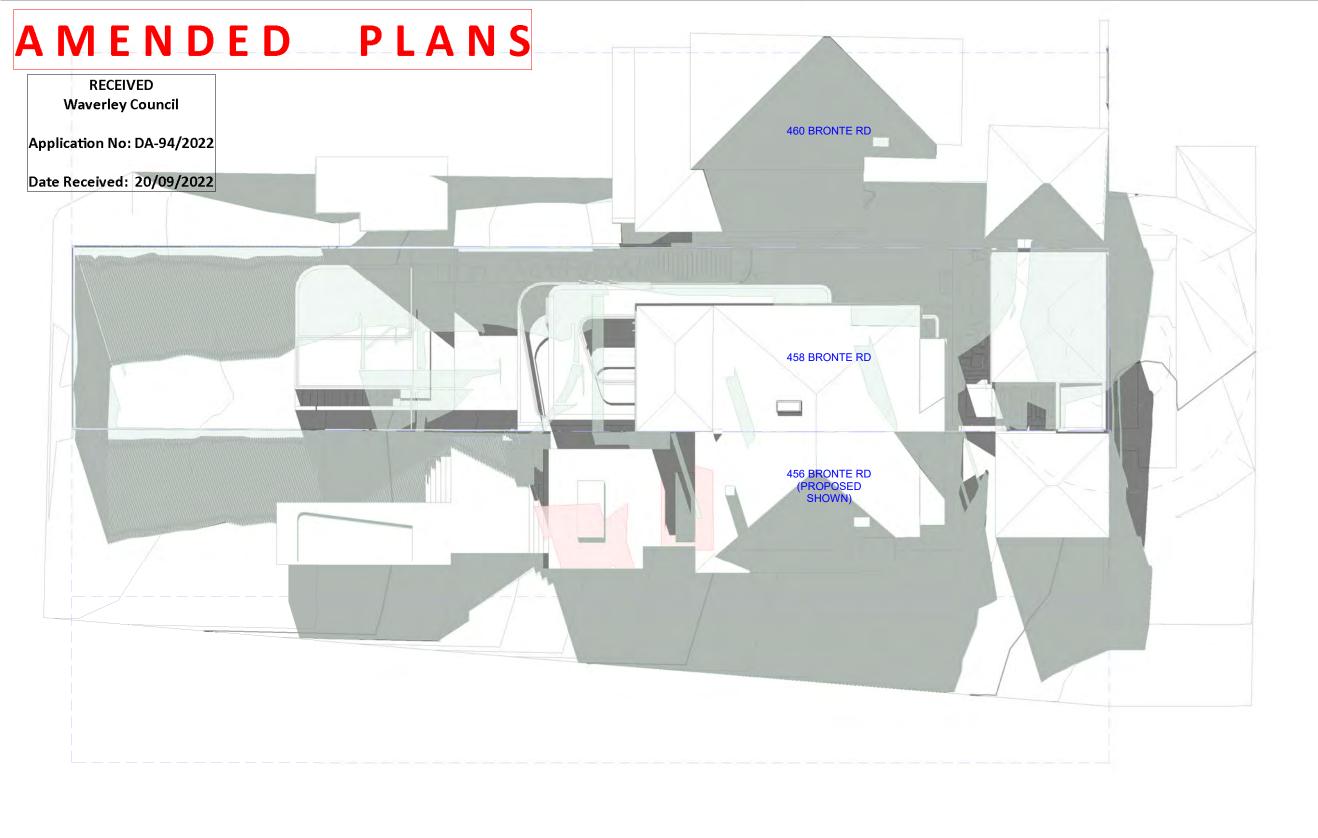
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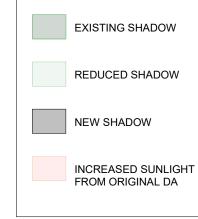
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Schedule of Finishes

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Α	For DA	03.03.2022
В	For DA	02.08.2022

Client:

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Issue B

Drawing Number:

DA500

Date 02.08.2022

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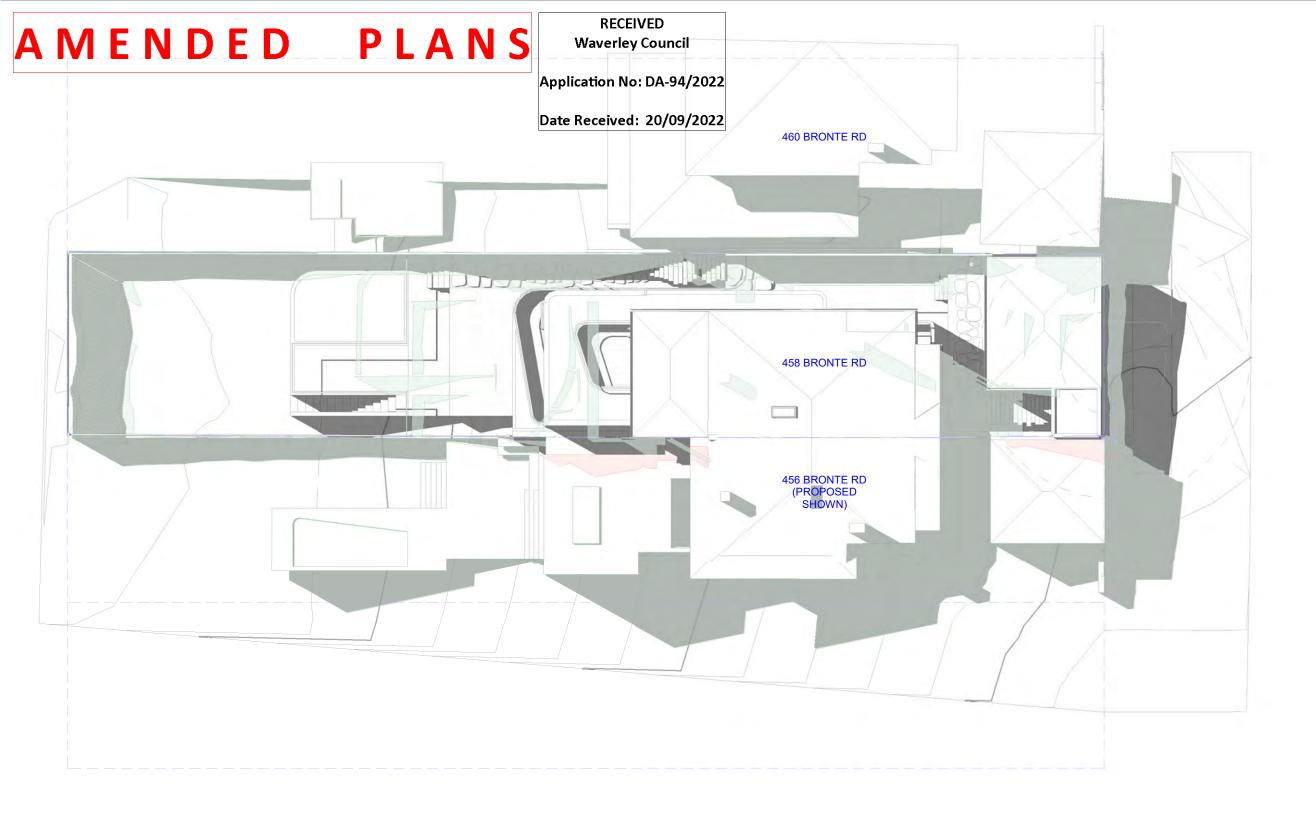
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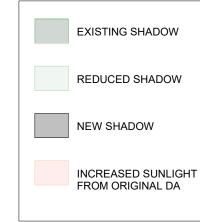
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Revisions				
No.	Description	Date		
Α	For DA	03.03.2022		
В	For DA	02.08.2022		

Client:

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Issue B

Drawing Number:

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Date 02.08.2022

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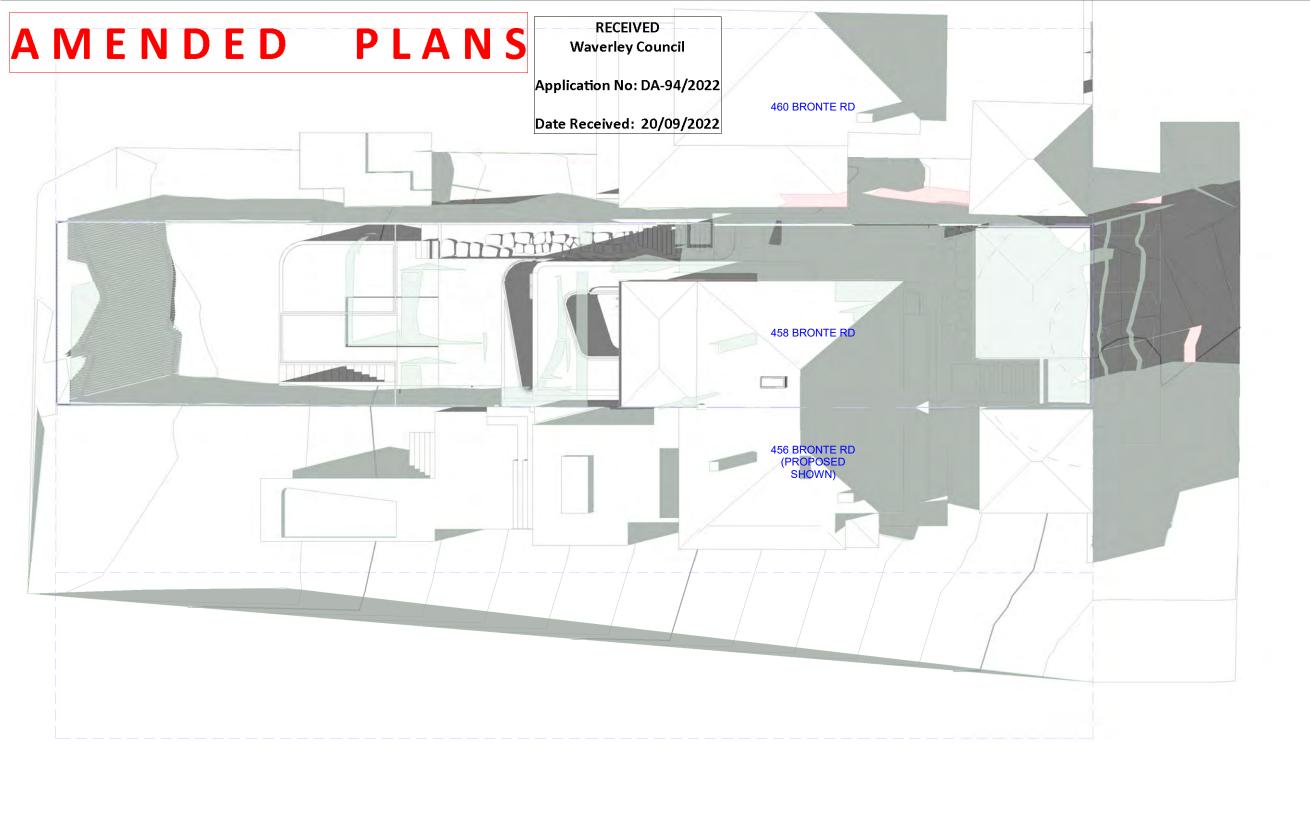
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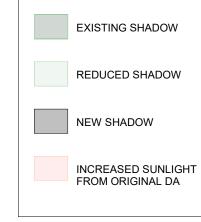
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No.	Description	Date
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В	For DA	02.08.2022

Client:

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Drawing Number:

mber: Issue B

DA502 Date

02.08.2022

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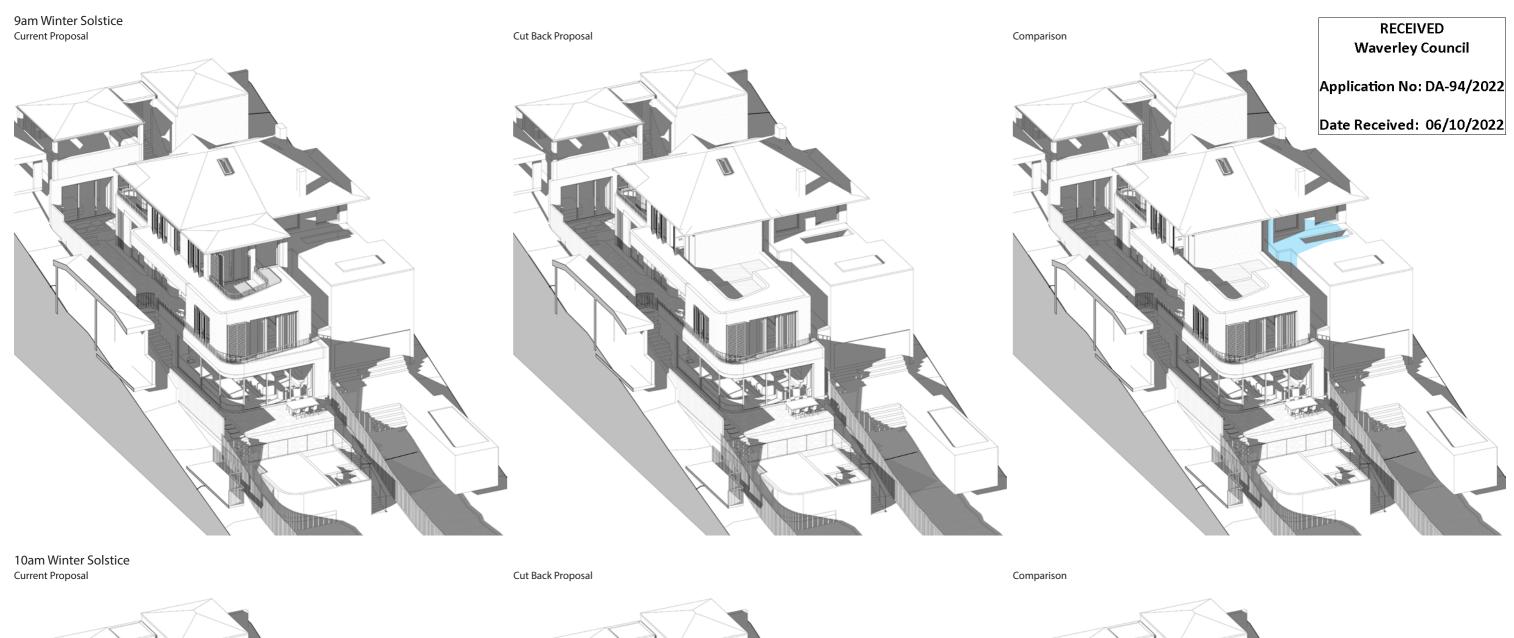
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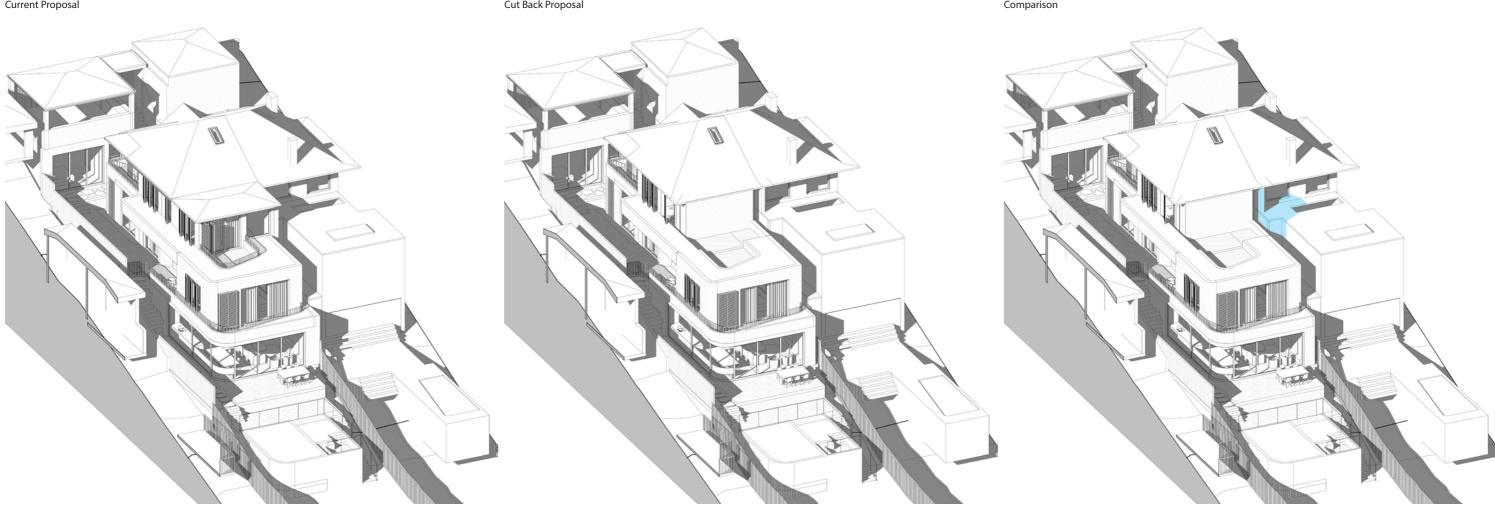
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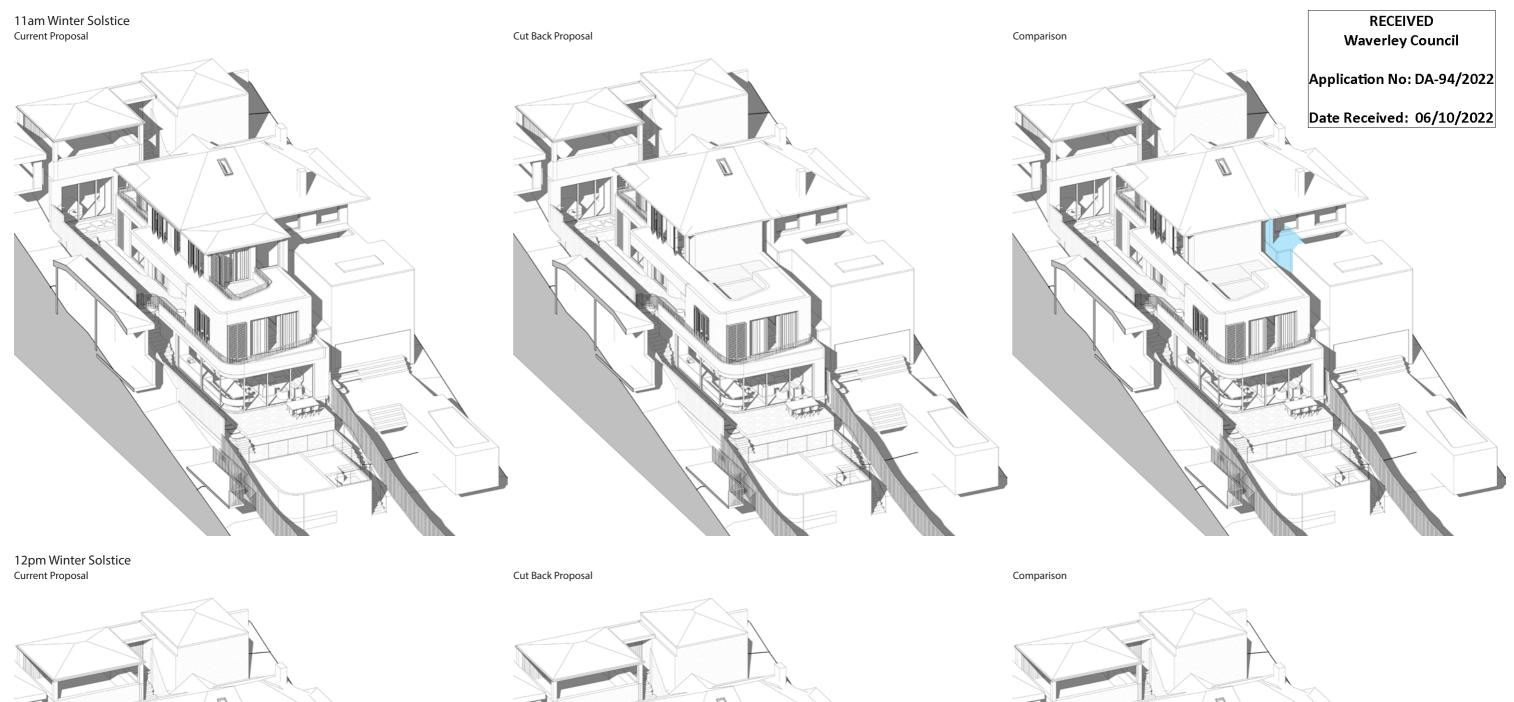
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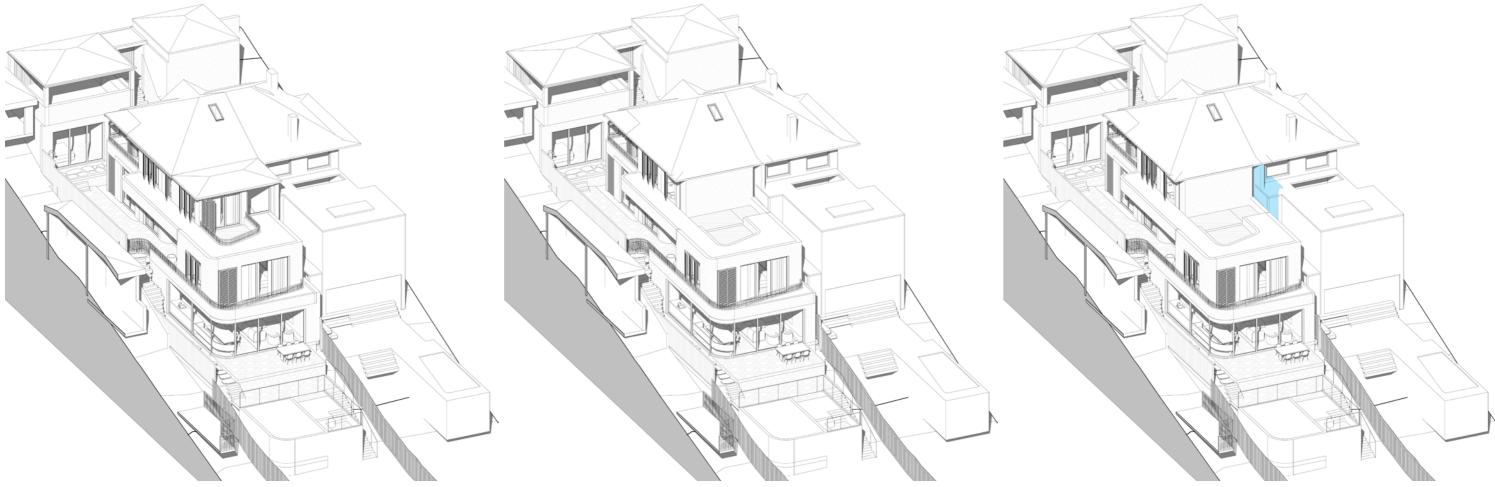
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## Report to the Waverley Local Planning Panel

Application number	DA-45/2022
Site address	108 Ramsgate Avenue, Bondi Beach
Proposal	Demolition of existing building and construction of a new three storey residential flat building with attic level, basement level parking, tree removal and swimming pool at rear.
Date of lodgement	07/02/2022
Owner / Applicant	Ms S V Landa
Submissions	13 submissions
Cost of works	\$1,972,991
Principal Issues	<ul><li>Rear setback</li><li>View impacts</li><li>Privacy</li></ul>
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.

### SITE MAP



#### 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the demolition of all structures and construction of a three-storey residential flat building (RFB) at the site known as 108 Ramsgate Avenue, Bondi Beach.

The principal issues arising from the assessment of the application are as follows:

- The proposal will result in view impacts from surrounding properties. Notwithstanding, the proposed development complies with building height and FSR development standards, as well as external wall height, setbacks and open space/landscaped area DCP controls. The proposed development therefore achieves a building envelope that is reasonable and expected for this site. Although the view impact is an unfortunate consequence of the development of this site, on balance, it is not considered unreasonable.
- The proposal may have privacy impacts upon the adjoining property to the east. Conditions are recommended to ensure a reasonable level of privacy is maintained to windows on this property and as such, the privacy impacts will be minimised.

The assessment finds these issues acceptable.

A total number of 13 unique submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 23 March 2022.

The site is identified as Lot 3A in DP 312109, known as 108 Ramsgate Avenue, Bondi Beach. The site is rectangular in shape with a south-western frontage to Ramsgate Avenue, measuring 10.67m. It has an area of 417.8m<sup>2</sup> and is generally flat.

The site is occupied by a single storey dwelling with vehicular access provided from Ramsgate Avenue.

The site is adjoined by a three-storey dwelling to the west at 106 Ramsgate Avenue and a three-storey mixed use building to the east at 110-114 Ramsgate Avenue. The locality is characterised by a variety of low and medium density residential development with dwellings, RFB's and mixed-use buildings fronting Campbell Parade to the north and east.

Figures 1 to 7 are photos of the site and its context.



Figure 1: Streetscape (Source Google Streetview)



**Figure 2:** Front elevation of existing dwelling as viewed from Ramsgate Avenue



Figure 3: Rear elevation of existing dwelling



**Figure 4:** Front elevation of existing dwelling with adjoining dwelling at 106 Ramsgate in the background



Figure 5: Rear boundary of the site



Figure 6: Eastern side boundary



Figure 7: Adjoining building to the east

# 1.3. Relevant Development History

There have been a number of development consents and complying development certificates issued for minor works to the existing dwelling on the site.

## 1.4. Proposal

The development application seeks consent for the demolition of all structures on the site and construction of a three-storey RFB.

The proposal will include excavation to provide a basement car park, providing five parking spaces (including two sets of tandem spaces), two motorcycle spaces, three bicycle spaces, and a waste storage room for bins and bulky waste items. Vehicular access is provided via a ramp from Ramsgate Avenue at the front of the site on the eastern side. A turntable will also be provided within the basement to ensure that vehicles enter and leave the site in a forward direction.

The three above ground levels and attic will provide three apartments, one on each level, accessed via a central foyer on the eastern side of the building. The ground and first floor apartments will provide three bedrooms and the second floor apartment will provide four bedrooms with the fourth bedroom within an attic space. The attic will be contained within the pitched room and be connected to the apartment below.

Balconies are included on the front and rear elevations. The rear yard is proposed to be allocated to the ground level apartment as the principal area of private open space and will contain a new swimming pool.

## 1.5. Background

The development application was lodged on 7 February 2022 and deferred on 9 June 2022 for the following reasons (summarised):

- 1. Rear setback: Reduce the size of the internal voids to increase the setback from the rear.
- 2. View Impact: Consider a more skilful design to reduce view impacts from surrounding properties and provide view analysis diagrams.
- 3. Excavation: Provide a preliminary geotechnical investigation report due to excavation to the boundary.
- 4. Other matters: Entry foyer, architectural detailing, finishes, electric car charging, ceiling fans, tree retention and landscaping.

The amended plans and information were provided to Council on 31 August 2022 and form the subject of the assessment within this report.

#### 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

# 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

# 2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from 1 March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021

\*SEPP 65 (Design Quality of Residential Apartment Development) does not apply to the development as the SEPP only applies to residential flat buildings with three or more storeys and four or more apartments.

# 2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
Part 2 Permitted or prohibited de	velopment	
Land Use Table  R3 Medium Density  Residential Zone	Yes	The proposed land use is defined as a residential flat building, which is permitted with consent in the R3 zone.
Part 4 Principal development star	ndards	
<ul><li>4.3 Height of buildings</li><li>12.5m</li></ul>	Yes	The maximum height of the proposal is 12.5m complying with the development standard.
4.4 Floor space ratio  • 0.9:1	Yes	The proposal has an FSR of 0.89:1, complying with the development standard.
Part 5 Miscellaneous provisions	I	
5.10 Heritage conservation	Yes	The site is not heritage listed or located within a conservation area. The site is located opposite the Bondi Beach conservation area (C2).
		The proposal will not harm the character or significance of the conservation area.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is designated as Class 4 and 5 on the Acid Sulfate Soils Map; however the Geotechnical Report indicates that the water table will not be lowered and the excavation will not intersect Acid Sulfate Soils.
6.2 Earthworks	Yes	The proposal includes excavation to provide a basement car park. A Geotechnical Report was provided outlining methods and recommendations to ensure excavation does not impact surrounding properties. Conditions relating to excavation are also included in Appendix A.

# 2.1.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory
Ecologically Sustainable     Development	Yes	Satisfactory
3. Landscaping and Biodiversity	Yes	The site is located in a habitat corridor and the landscape plan provides appropriate species.
5. Vegetation Preservation	Yes	The proposal includes removal of several trees from the site, which have been assessed by Council's Tree Management Officer as not being worthy of retention with removal supported. Details of the trees to be removed are provided in Section 3.4 of this report with the referral comments of the Tree Management Officer in detail. An Arborist Report was also provided which is referenced in the consent conditions.
		A condition will require that two replacement trees are planted within the rear yard of the site to replace those removed.
6. Stormwater	Yes	The stormwater management plan was reviewed by Council's Stormwater Engineer and conditions provided which are included in Appendix A.
7. Accessibility and Adaptability	Yes	Satisfactory
8. Transport		The proposed basement car park is comprised of:
Zone 2		• 5 car spaces
Minimum parking rate:  Nil		<ul><li>2 motorcycle spaces</li><li>3 bicycle spaces</li></ul>
Maximum parking rate:  • 5		The number of parking spaces complies with the maximum provisions of the DCP subject to a condition allocating one of the parking spaces to
Visitor parking:	Yes	visitors.
<ul><li> 1</li><li>Motorcycle parking:</li><li> Resident: 1</li></ul>		The parking design has been reviewed by Council's Traffic Engineers and found to be compliant.
Bicycle parking:  Resident: 3  Visitor: 0		According to the RMS Technical Direction: Guide to Traffic Generating Developments Updated

Development Control	Compliance	Comment
		traffic surveys (August 2013), the residential component of this development will generate:
		Morning peak hour vehicle trips = 0.19 trips per car space
		Evening peak hour vehicle trips = 0.12 trips per car space
		Advice from Council's Traffic Engineer is that traffic impacts can be accommodated within the existing road system.
		Refer to Table 1 of this report.
9. Heritage	Yes	The site is located within the Bondi Rose Bay Sand Body which is indicated in the DCP as having low sensitivity in relation to Aboriginal cultural heritage. As such an advisory condition is included in the Appendix A.
10. Safety	Yes	Satisfactory
12. Design Excellence	Yes	Satisfactory
		The excavation does not add to the bulk and scale of the building, with the basement being contained fully below ground level.
14. Excavation	No	The proposed basement is set back from the eastern side boundary by 1.25m and no setback from the western side boundary. Sufficient setbacks from the front and rear have been provided.
		A Geotechnical Report was provided to Council, which provides recommendations in relation to protecting surrounding properties and is referenced in the conditions in Appendix A.
		The excavation is considered acceptable.

Table 3: Waverley DCP 2012 – Part C1 – Special Character Areas

Development Control	Compliance	Comment
1.2 North Bondi		
<ul> <li>Desired Future Character</li> <li>Objectives</li> <li>Maintain streetscape rhythm in building frontages</li> <li>Improve amenity on site and adjoining sites</li> </ul>	Yes	This part of Ramsgate Avenue is a mixture of two and three-storey dwellings and RFB's with pitched or flat roofs. The proposal is consistent with the predominant building stock within the area providing the minimum required side setbacks, a consistent front setback with adjoining properties and a pitched roof.

Development Control	Compliance	Comment	
Controls  (a) Planting should utilise minimum maintenance	Yes	The proposed development performs satisfactorily against most of the controls in this section of the DCP.	
species growing to no more than 1m in height at maturity.		The proposal provides a front garden planted with low growing species. Although not allocated as communal space, the area contributes to the	
(b) Communal landscaped gardens are required within the front setback.		The proposal has a dark coloured roof; however recent development within Bondi Beach utilises	
(c) Private open space is permitted to encroach 2.5m into communal landscaped front setback provided the		this colour as it is more appropriate to contemporary buildings. A red roof would not be consistent with the modern design of the proposal.	
front setback is a minimum of 6m from the street boundary.			The attic is secondary to the main roof form, providing only a small dormer on the western elevation, set well within the roof space.
(e) Buildings should have pitched roofs with red tiles in keeping with the existing character of the area.		There are no established patterns of materiality and colour along this street; however, the vast majority of buildings within the vicinity of the site are rendered and coloured in a light shade. The	
(f) Attics are to be secondary to the main pitched roof form.		proposal is consistent with this pattern, providing predominantly white and concrete finishes with some use of black cladding for contrast and articulation.	
(g) The established patterns of materiality and colour where there are existing rows of consistency along a street are to be maintained.			

Table 4: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
3.1 Site, scale and frontage		
Development is not to result in isolated sites with a minimum street frontage of: (i) 15m or less for R3 zones.	Yes	The site has a frontage of 10.67m. The proposal is adjoined by a three-storey dwelling house to the west and a mixed use building to the east built over most of the site.
		The site to the west has street frontage less than 15m however, a dwelling has been recently constructed on this site that meets the FSR development standard.
		A dwelling house is a permissible land use in the R3 zone. It is noted that one of the objectives of the R3 zone is to provide a variety of housing types within a medium density residential

Compliance	Comment
	environment and RFB's and dwellings are both permissible land uses. In this respect, not all sites within the R3 zone need to be developed into residential flat buildings to be consistent with the objectives of the zoning. As such, the proposal will not result in site isolation of No. 106 Ramsgate Avenue.
Yes	The wall height of the development is 9.5m.
	The about a should be a section of the first
Yes	The street setback is consistent with the properties to the west of the site on Ramsgate Avenue. The properties to the east, being mixed use development with shops at ground level, are built up to the front alignment. Aligning with the residential buildings to the west is considered appropriate.
Yes	The proposal provides 1.5m setbacks from both side boundaries.
Yes	The proposal does not provide deep soil along one side boundary. The proposal provides a setback of 1.25m to the basement along the eastern boundary with planting within part of this area. This is considered acceptable in this
140	instance.  This is discussed further below.
ngc	
Yes	The building length along the street is 7.67m.
Yes	The façade is appropriately articulated with balconies and contrasting finishes.
NO	The depth of the apartments exceed 18m given each is contained within a single floor.  Notwithstanding, all apartments have four aspects providing optimal light, ventilation and amenity. In this regard, the apartment depths are considered satisfactory.
scape	
Yes	The proposed building will make a positive contribution to the streetscape, providing a contemporary building which is reflective of the character of the area.
	Yes Yes No ngs Yes Yes No

Development Control	Compliance	Comment
		As previously discussed, the materials and finishes are considered sympathetic to the surrounding area and are acceptable.
3.6 Attic and roof design		
<ul> <li>Attic and roof design</li> <li>Attic must be wholly within a pitched roof form</li> <li>Not exceed 50% of the floor of area of the floor below</li> <li>Not contain independent dwellings and must be accessed via internal stairs</li> <li>Be naturally ventilated</li> <li>Minimum room width: 3m</li> <li>Minimum floor to ceiling height for at least 2/3 of the floor area: 2.4m</li> <li>Dormer windows and skylights to be less than 50% of roof elevation</li> </ul>	Yes	The attic is contained within the pitched roof form with only a dormer projecting beyond the roof slope.  The attic is 21% of the floor area of the level below.  The attic is connected to the apartment below and does not contain an independent dwelling.  The attic bedroom meets the minimum width at 3.8m wide and the ceiling height will be at least 2.4m for 2/3 of the bedroom. Notwithstanding, the proposal must comply with NCC (prescribed conditions).  The dormer window and skylights are 6% of the roof elevation.  There is only one dormer window; however it is appropriately sized.  The dormer is set down 625mm from the ridge.
<ul> <li>Must not have one single expansive dormer window</li> <li>Dormers to be set down 300mm from main ridge</li> </ul>		The doffier is set down ozsimi from the ridge.
3.7 Fences and walls		
Front fence:  Maximum height 1.2m  Maximum 2/3 solid  Side fence:	Yes	The front fence is low at 1.1m in height and is of an open design to allow views to the landscaping within the front setback. However, a condition is recommended that the existing sandstone wall at the front of the site is retained/reused to provide
Maximum height: 1.8m	Yes	visual interest to the front façade through a mix of materials.
Rear fence:  • Maximum height: 1.8m	Yes	The side and rear setbacks will be lower than the existing ground level by a maximum of 700mm – 1250mm and as such, the proposal includes retaining walls with fencing above. The plans are not clear on the height of the fencing along these boundaries and as such a condition is recommended that the side and rear fencing shall not exceed a height of 1.8m from the existing ground level of the corresponding adjoining site.

Development Control	Compliance	Comment
3.8 Pedestrian access and entr	V	
<ul> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Separate to vehicular entry</li> <li>Legible, safe, well-lit</li> </ul> 3.9 Landscaping	Yes	The pedestrian access and entry to the development is from street level, accessible (ie, levelled/flat from footpath level) and located within the eastern side setback area. The pedestrian access and entry are legible and safe by way of a secured gate. The pedestrian and vehicular entry are separate.
Comply with Part B3-	Yes	Refer to Table 2.
<ul> <li>Landscaping and         Biodiversity</li> <li>Minimum of 30% of site         area landscaped: 125m²</li> <li>50% of the above is to be         deep soil: 62.5m²</li> </ul>	Yes Yes	The proposal provides 35% (148m²) landscaped area.  The proposal provides 75% (94m²) of the landscaped area as deep soil. The majority of the deep soil is consolidated within the rear setback.
3.10 Communal open space		
<ul> <li>Minimum 15% communal (R3 zone): 63m²</li> <li>Where developments are unable to achieve the recommended communal open space, such as small developments (5 or less dwellings) or sites within business zones, they must:</li> <li>Provide quality communal indoor space within the development; and/or</li> <li>Provide significantly larger balconies or greatly increased private open space for dwellings; and/or</li> <li>Demonstrate proximity to public open space and facilities; and/or</li> <li>Provide significant contributions to public open space.</li> </ul>	Yes	No communal open space is provided; however, the development provides sufficient and generous areas of quality private open space for the apartments on the upper floor levels that will compensate for the lack of communal open space. The site is located opposite Bondi Beach and foreshore parks which provide an abundance of recreational areas.  The proposal is for a small RFB with only three dwellings and as such the generous balconies at the front and rear and the proximity to public open space is considered to adequately address this issue.
3.11 Private Open Space 3.11.1 – Courtyards	Yes	All balconies and courtyards will exceed the
S.III. County and S		minimum required.

<b>Development Control</b>	Compliance	Comment
<ul> <li>Private Courtyards – min 25m² area and 3m width and depth</li> <li>Planting to be provided</li> <li>Private open space not to be provided at the front, unless a buffer it provided</li> <li>Max gradient 1 in 10</li> <li>3.11.2 – Balconies/decks</li> <li>Should not dominate the façade</li> <li>No wrap around balconies</li> <li>Located to maximise solar access and privacy</li> <li>Balustrades to allow views and casual surveillance of the street &amp; privacy</li> </ul>		The ground level apartment will have exclusive use of the front courtyard and rear yard with swimming pool. The front courtyard will not be private from the street; however this will be accessed from a bedroom and will not be the principal area of private open space. The rear yard will have an area of approximately $32m^2$ and will be accessed from the living area with a northerly aspect and swimming pool.  The upper level apartments will have balconies at the front and rear with those at the front being accessed via living areas (principal balcony). The rear balconies will have a northerly aspect and will be accessed from bedrooms. Although the principal balconies will be south facing these are orientated toward significant views toward the south-east of Bondi Beach and the Pacific Ocean. Full solar access to the rear balconies will be achieved to ensure outdoor space with a high level of amenity.
3.12 Vehicular access and park	ing	
<ul> <li>Car parking to be integrated into the design of the development</li> <li>Max 1 x 2 way vehicle access point</li> <li>Provided from secondary street or lane</li> <li>Pedestrian safety considered</li> <li>Basement parking should not contravene deep soil zone controls</li> </ul>	Yes	The basement car park will be located below the building ensuring integration into the design of the building.  The proposed driveway is 3m wide providing a one-way access point. There is already an existing driveway crossing in the same location and therefore the proposal will not result in loss of on-street parking in front of the site.  Pedestrian safety has been considered by providing lower walls at the front of the site to enable sightlines to the footpath.  Deep soil has been previously discussed.
3.13 Solar access and overshad		
<ul> <li>Minimum of three hours of sunlight to a minimum of 70% of units in the development on 21 June</li> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid winter.</li> </ul>	No	The ground level apartment will receive sufficient solar access with the living room and private open spaces orientated to the north (rear). The mid-level apartment will receive no solar access to the living area windows or balcony as these are orientated toward the south to access significant views. The upper level apartment will receive solar access to the two front balconies (one balcony at attic level); however no solar

Development Control	Compliance	Comment
Direct sunlight to north facing windows of	Yes	access to living area windows as this apartment is also orientated to the south.
habitable rooms on all private open space areas of adjacent dwellings to less than three hours of		Both of the upper level apartments have a rear (north) facing balcony accessed from bedrooms that will receive full sun.
sunlight on 21 June.		It should be noted that the site is positioned to overlook Bondi Beach and the iconic views it provides. In this regard, the upper level living areas and balconies have been orientated toward the south to achieve these views. Providing main living area windows and balconies on the Ramsgate Avenue frontage also reduces privacy conflicts with residential properties to the rear.
		Given the unique characteristics of the site, it is considered appropriate to provide the main windows and balconies on the southern side of the building and the variation to the solar access controls are supported in this instance.
		The shadow diagrams in plan and elevation form demonstrate that the additional shadowing impact caused by the proposed development will fall on the north-western elevation of the adjoining residential flat building to the southeast at 110 Ramsgate Avenue. The most impacted windows are those at the ground and first floor level on this elevation. Therefore, the development will reduce the amount and duration of sunlight received by windows, including north-facing windows of habitable rooms of these neighbouring apartments in midwinter.
		Despite this, the reasonableness of the overshadowing impact is considered based on the performance and compliance of the development with relevant built form development standards and controls as well as the site's orientation. As demonstrated in this report, the development complies with the building height and FSR development standards under the Waverley LEP 2012, and wall height, setbacks and open space/landscaped area controls under the Waverley DCP 2012. Based on the proposal's compliance with the key built form controls, any additional overshadowing impact caused by the proposed development is deemed reasonable and non-adverse and anticipated for any compliant redevelopment of the subject site.

De	velopment Control	Compliance	Comment
3.1	14 Views and view sharing		
•	Minimise view loss through design Views from public spaces to be maintained.	Yes Yes	Refer to discussion below.  No known public domain views will be impact by the proposal.
3.1	L5 Visual privacy and securit	V	
•	Dwellings to be orientated to the street with entrances and street numbering visible	Yes (subject to conditions)	The apartments are orientated toward the street.  Refer to detailed discussion below.
•	Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened		
•	Privacy be considered in relation to context density, separation use and design.		
•	Prevent overlooking of more than 50% of private open space of lower level dwellings in same development		
3.1	L6 Dwelling size and layout		
•	Max room depth for single aspect dwellings	N/A	There are no single aspect dwellings.  The dwellings have a width of 7m.
•	Min width of dwelling over 15m deep is 4m	Yes	All habitable rooms are provided with a window.
•	All habitable rooms to have a window	Yes	The proposal provides two x 3-bed and one x 4-bed.
•	Provide a range of dwelling types and sizes	Yes	The apartments exceed the minimum size requirements.
•	Min sizes 3+ bedroom = 100m <sup>2</sup>	Yes	
3.1	17 Ceiling Heights		
•	Min 2.7m floor to ceiling height residential floors	Yes	The lower three levels provide 3m floor to floor and as such can meet the control.
•	Min 2.4m floor to ceiling height attic levels	Yes	The attic room provides a ceiling height of 2.4m for 2/3 of the bedroom. Prescribed conditions require compliance with the National Construction Code (NCC).
Щ_			

Development Control	Compliance	Comment
3.18 Storage		
In addition to kitchen cupboards and bedroom wardrobes, min storage required is:  • 3 or more bed = 10m³  • All to provide bulk storage area in basement or ancillary structure	Yes	Storage is provided within each apartment through oversized wardrobe space, linen and laundry cupboards. However, no space has been provided within the basement for each apartment except for three bike parking spaces. In this regard, a condition of consent is recommended to ensure each apartment has their own dedicated and secure bulk storage area in the basement, even if this is an above car/hood unit.
3.19 Acoustic privacy		
Internal amenity by locating noisy areas away from quiet areas	Yes	Acoustic privacy has been considered in the design by locating rooms with similar uses above and below each other.  The main principal balconies are located at the front of the site overlooking the street where noise levels are higher. At ground level, the private open space is located at the rear; however this is consistent with traditional rear yard uses in residential areas.
3.20 Natural Ventilation		
<ul> <li>All dwellings to be naturally cross-ventilated</li> <li>Building to be orientated to maximise breezes</li> <li>Ceiling fans are to be provided in all habitable rooms.</li> </ul>	Yes	All dwelling will be naturally cross ventilated with each apartment having four aspects.  Ceiling fans are provided in all bedrooms
3.21 Building services		
Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications	Yes	Services are integrated into the design of the building. The location of letter boxes is not indicated on the plans; however there is sufficient area adjacent to the main entry accessed via the side ramp.  There are no services proposed on the roof of the building.
<ul> <li>Structures</li> <li>Outdoor Communal clothes drying area to be provided</li> <li>Plant rooms away from entry communal and</li> </ul>		There is no communal space on site and as such, no communal clothes drying area is provided. Each apartment provides two balconies with the north facing rear balconies having sufficient area for the drying of clothes. The ground level apartment will have a drying court adjacent to the laundry.

Development Control	Compliance	Comment
private open spaces and bedrooms.		Plant will be located within the basement.
<ul> <li>Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</li> </ul>		

Table 5: Waverley DCP 2012 –E2 Bondi Beachfront Area Compliance Table

Development Control	Compliance	Comment
2.1 General Controls		
2.1.1 Public Domain Interface	Yes	The proposal is considered sensitive to the streetscape character as previously discussed in this report. The public domain interface is appropriate with a defined entry along the western side boundary.
2.1.2 Building Use	N/A	Only residential uses are permitted given the R3 zone. This site is on the periphery of the Bondi Beachfront Area and is zoned for residential uses rather than commercial.
2.1.3 Built Form	Yes	The proposed building is sympathetic to the scale and height of the existing buildings, particularly those adjoining on either side.
		The attic level is wholly contained within a gable roof form
2.1.4 Roofs	Yes	The pitched roof form is consistent with the character of Ramsgate Avenue rather than Campbell Parade. Given the site is located within the Ramsgate Avenue streetscape this is considered appropriate.
2.1.5 Views	Yes	No known public domain views will be impacted.  Trees are not permitted from being planted where they would take away an existing view from the habitable room or balcony of an existing building when mature. The landscape plan includes low growing species in locations where views may be impacted. A condition will require that two replacement trees are included in the rear yard however these will be unlikely to affect views given their location.

Development Control	Compliance	Comment
2.1.6 Heritage conservation	Yes	The proposal is adjacent to a heritage conservation area. The proposed building is cohesive the character and streetscape of the heritage conservation area utilising a pitched roof form and light coloured finishes.
2.1.7 Infill Buildings	Yes	The proposal incorporates similar proportions and built form of nearby heritage buildings and contributory buildings without imitating decorative details and features. The proposal sets back the attic level behind the predominant front setback providing a transition in height and bulk between the higher buildings addressing Campbell Parade to the south and east and the lower scale residential buildings to the west on Ramsgate Avenue.
2.2 Character Areas – Area D	Campbell Parade	North
Area D or 2.2.4 – Campbell Parade North  (a) To support the unique mixed use character of this section of Campbell Parade.  (c) To ensure new development and major renovations are consistent with the existing character of the area.	Yes	The proposal is consistent with the desired and existing future character. The proposal has been designed to be consistent with the characteristics of existing buildings which are predominantly rendered masonry with a vertical expression. Buildings are generally oriented to the south to take advantage of the view over Bondi Beach, with some balconies. The orientation and narrow frontages limit solar access and cross ventilation.
<b>Built Form Controls</b>		
Height and Bulk  (i) A maximum of 4 storeys is permitted.  (ii) A maximum external wall height of 12.5m is permitted.  (iii) An attic level or part additional floor may be permitted.  (iv) New buildings must address the character of adjoining buildings and generally reproduce the side setbacks, bulk and scale of adjoining built form.	Yes	The proposal provides a three-storey building with an attic contained within a pitched/gable roof.  The maximum wall height is 9.5m.  The proposal is located adjoining a mixed use building with a shop addressing the corner at ground level. This building is built up to the front alignment. The proposal provides an appropriate transition between this mixed use building and the smaller scale dwelling and residential flat buildings to the west on Ramsgate Avenue.

Development Control	Compliance	Comment
Buildings with frontages to Ramsgate Avenue and Brighton Boulevard are to have a front setback of 3m. Buildings are to provide front and rear setback back for floors above street level to provide balconies.	Yes	The proposal provides a front setback of 3.8m to be consistent with the clear predominant front setback of buildings to the west on Ramsgate Avenue. This is considered appropriate. Balconies are contained at the front with the upper level wall set back beyond the balconies.
<ul> <li>Façade Materials and</li> <li>Finishes</li> <li>New facades must be predominately rendered masonry with parapets and have a vertical expression.</li> <li>Blank, flat and unarticulated facades are not permitted.</li> <li>Buildings within the visual catchment of Bondi Beach must not use materials that are highly reflective.</li> <li>Windows above ground level must have a vertical proportion.</li> <li>Dark or tinted glazing is not permitted.</li> </ul>	Yes	The proposal has a concrete finish with contrasting black and white balustrade and cladding. The proposal includes a pitched roof so there is no parapet and this is reflective of the characteristics of the residential flat buildings further to the west.  The proposal is vertically proportioned, including the glazed doors above ground level. The material colours are muted and non-reflective.
Balconies and Balustrades     Balconies must be composed as part of the overall form of the building		The balconies are designed to be integrated into the design of the building.
<ul> <li>External Sun Shading:         <ul> <li>External sun shading must be suitable to the environmental conditions of the site.</li> <li>External sun shading must be consistent with the style and articulation</li> </ul> </li> </ul>	Yes	Sun shading is provided through the use of cladding/screening on the side elevations which also enhances privacy. Shading to the balconies is by the overhang of the balcony above.

Development Control	Compliance	Comment
of the building. Sun shading must not project beyond the principal façade		
<ul> <li>Roofs and Parapets:</li> <li>Roofs must not be visible from Campbell Parade, unless providing a pitched roof relates to an adjacent heritage item or contributory building.</li> <li>The roofline of buildings, predominately comprising lift motor rooms and plant rooms shall be designed as an integral part of the buildings architectural form.</li> </ul>	Yes	Although the site does not front Campbell Parade, the pitched roof will be obscurely visible from Campbell Parade. The roof is characteristic of residential flat building to the west of the site on Ramsgate Avenue and is considered appropriate.  The roof is appropriately designed with the lift overrun contained within the roof form.
<ul> <li>Façade Colours:</li> <li>Colours must be consistent with, retained or reinstated on heritage items and contributory buildings.</li> <li>Light to mid colours must be used on all other buildings.</li> <li>Dark colours are not permitted.</li> </ul>	Yes	The proposal utilises light colours for the majority of the façade. On the front façade, the balcony balustrading to the upper floor balconies will be black to provide contrast to this elevation. This is considered acceptable.
Parking:  • Parking should be located below ground level and should not be visible from the street.	Yes	The parking is below ground level and not visible from the street.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

# Rear setback

The proposal was deferred to address the rear setback of the first and second floor levels. The amended plans increased the rear setback of these levels by 600mm to the building wall; however, maintained the

setback to the balconies. This resulted in reduced FSR; however, the size of the balconies is increased. A setback is defined as 'the horizontal distance between a building and a site boundary, measured along a line perpendicular to the site boundary'. Therefore, the setback is taken to the building which includes the balcony. In effect, the amended plans did not increase the rear setbacks of the original proposal.

Notwithstanding, the amended documentation demonstrates that the rear setback of 8m to balconies provides a staggered rear setback between the greater setback of the dwelling to the west and the reduced setback of the mixed use building to the east. This is considered acceptable.

It should be noted that the balconies are considered to be overly large as discussed in detail under 'Privacy' in a later section of this report.

#### View sharing

The notification of the application was extensive in order to encompass properties to the north-west on Brighton Boulevard that may have had a view over the subject site being located uphill of the site. Objections relating to view impacts were received from the following properties:

- 6/77-79 Brighton Boulevard, Bondi Beach
- 7/77-79 Brighton Boulevard, Bondi Beach
- 8/77-79 Brighton Boulevard, Bondi Beach
- 83 Brighton Boulevard, Bondi Beach

Images were provided by objectors for all of the above properties with the exception of 6/77-79 Brighton Boulevard, whereby no response was received upon request of photographs of the view. Upon assessment of the provided photographs and assessment of photographs taken by the Assessment Officer during the assessment of development applications on surrounding sites, it was ascertained that the two most impacted properties, in terms of view impacts, are Units 8 and 9/77-79 Brighton Boulevard. It is noted that no objection was received from Unit 9; however, photographs taken during a previous assessment demonstrated that this property may be impacted.

An assessment of the view loss caused by the proposed development has been undertaken in accordance with the four steps applied in the NSW Land and Environment Court planning principle on view sharing arising from the case of *Tenancity Consulting vs. Warringah* [2004] LEC 140. The assessment is set out below.

## 1. Identify the views to be affected.

The affected properties have water views and views of land and water interface (ie, coastline including cliff faces and headlands) over the subject site which are demonstrated in **Figures 8** to **12**. Photographs were provided to the Applicant of Units 8 and 9/77-79 Brighton Boulevard for the purposes of providing view analysis diagrams and these are demonstrated in **Figures 10** to **12**. No view analysis diagrams were requested for 83 Brighton Boulevard or 7/77-79 Brighton Boulevard as it is clear from the images below that these properties will lose the view in its entirety.

Please note that in the view analysis diagrams indicated in **Figures 10** to **12** the green line is the outline of the proposed building, the red line is a DCP compliant envelope and the blue line shows the 12.5m height control.



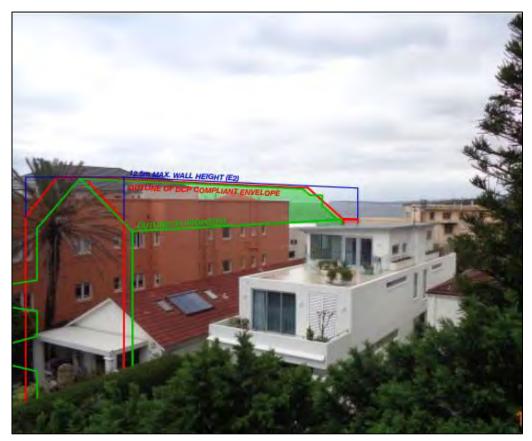
**Figure 8:** View from the upper level bedroom balcony of 83 Brighton Boulevard (to the rear)



**Figure 9:** View from the 7/77-79 Brighton Boulevard



**Figure 10:** View analysis showing view impact from the upper level balcony of 9/77-79 Brighton Boulevard



**Figure 11:** View analysis showing view impact from the living room balcony of 9/77-79 Brighton Boulevard



**Figure 12:** View analysis showing view impact from the living room balcony at 8/77-79 Brighton Boulevard

## 2. Consider from what part of the property the views are obtained.

The notations to each photo above, state the location from where each view photograph was taken. No. 83 Brighton Boulevard, 7/77-79 Brighton Boulevard and 8/77-79 Brighton Boulevard will be the most impacted adjoining properties in terms of view loss. Units 7, 8 and 9/77-79 Brighton Boulevard are located diagonally to the rear and have partial views of Bondi Beach and the headlands beyond from the balcony and living room windows. These units achieve the views from the rear elevation of their property however the view is diagonally across the side boundary of the subject site. No. 83 Brighton Boulevard is located to the rear of the site with views achieved over the rear boundary.

## 3. Assess the extent of the impact.

Unit 9/77-79 Brighton Boulevard will lose part of the view of water however will retain the land and water interface further to the south. Units 7 and 8 will lose views of the ocean, land and water interface and breaking waves and sand at Bondi Beach. No. 83 Brighton Boulevard will lose a glimpse of water through the side setbacks of building. The impact upon the views from Unit 9 can be quantified as moderate and upon Units 7 and 8 and No. 83 Brighton Boulevard as severe.

## 4. Assess the reasonableness of the proposal that is causing the impact.

As the images above demonstrate, the views achieved from these properties are through a 'gap' in the streetscape where the subject site is located. The zoning of Ramsgate Avenue is R3 - Medium Density where residential flat buildings with heights of 12.5 metres (4 storeys) are permitted. The desired character of this street, envisioned by the controls, is a much higher density and scale than the existing single storey dwelling on the site over which the views are achieved. In effect, the view from these properties is only achieved due to the fact that the subject site is an underdeveloped site.

Notwithstanding, the proposal has been amended since it was first submitted to set back the gable roof a further 1m to comply with the DCP controls and potentially improve view impacts. The view impact is marginally improved however it is evident that any development on this site will result in view loss from the surrounding properties. The owner of Unit 8/77-79 Brighton Boulevard has provided sketches that skew the upper floor levels to improve the view impact as an example of a more skilful design however this simply introduces impacts to other surrounding properties in terms of reduced side boundary setbacks and impacts upon the streetscape appearance of the building.

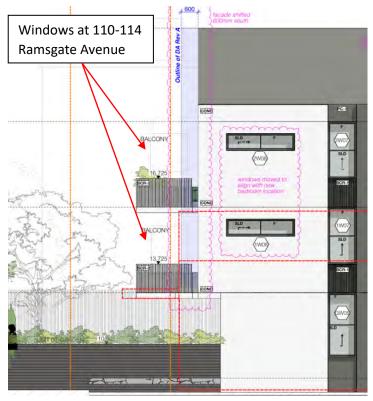
The proposed development complies with the building height and FSR development standards as well as external wall height, setbacks and open space/landscaped area DCP controls. The proposed development therefore achieves a building envelope that is reasonable and expected for this site. Although the view impact is an unfortunate consequence of the development of this site, on balance, it is not considered unreasonable. The proposal is therefore considered to be consistent with the view sharing principles and is supported.

### Privacy

Windows on the side elevations are suitably designed to inhibit privacy impacts upon adjoining properties being to rooms of low use (bedrooms) or non-habitable rooms. These windows are alternatively highlight, screened or frosted to minimise unreasonable privacy impacts.

The proposal includes balconies at the front and rear at the upper floor levels. The balconies at the rear are set back from the rear boundary by a minimum of 8m which is considered sufficient separation from the property at the rear to ensure no unreasonable privacy impacts. The rear balconies are also accessed via bedrooms which are rooms of low use with fewer privacy impacts. The principal private open spaces, accessed via living rooms, are located on the front elevation overlooking the street where privacy levels, and impacts, are low.

The rear balconies contain planters on the western side boundary to inhibit the overlooking of the rear yard of the adjoining dwelling at 106 Ramsgate Avenue. However, these balconies are located opposite windows at 110-114 Ramsgate Avenue to the east as shown in **Figure 13** below which is an extract of the amended plans. The privacy impacts of these balconies upon the windows on the opposing elevation are not considered acceptable given the limited separation distances. In this regard, conditions requiring privacy screening on the eastern side to these balconies and a reduction in the balcony width and area is included in the consent conditions.



**Figure 13:** Extract of the plans showing windows on adjoining building at 110-114 Ramsgate Avenue with direct viewing between the balconies and the windows

The front balconies include planters along the western side boundary to inhibit overlooking of the front balconies of the adjoining dwelling to the west. A privacy screen is also proposed for the western side boundary of the first floor front balcony as it is opposite windows on the adjoining property at 110-114 Ramsgate Avenue. However, no privacy screen is proposed for the balcony at the second floor level which is also opposite windows. These balconies appear to be opposite bedroom and bathroom windows and as such screening should be provided to both balconies. A condition to this effect is included in the consent conditions.

The front balcony at the attic level will be accessed via a bedroom which is a room of low use with fewer privacy impacts. This balcony is set back 2.2m from the eastern side boundary and is not located opposite windows at 110-114 Ramsgate Avenue. In this regard, no screening is considered necessary given it will add to the bulk of this level in the streetscape. Notwithstanding, it is considered appropriate to require by condition a planter 1.4m wide (similar to that on the opposite side boundary of the balcony) to inhibit viewing down into the windows of 110 Ramsgate Avenue from this balcony.

Given the above analysis, and subject to conditions as discussed, it is considered that the proposal will not have unreasonable privacy impacts upon surrounding properties.

# 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for a minimum of 21 days and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- The amended plans increase the front setback of the attic level by 1m.
- The amended plans reduce the size of the internal voids.
- The amended plans increase the rear setback of the building (not balconies) by 600mm.
- Highlight bedroom windows and bathroom windows were shifted slightly toward the south however given these windows are highlight windows and obscure glazed bathroom windows no further impact results.
- The rear balconies are increased in size; however, a condition of consent reduces these to no larger than those originally proposed (refer to discussion regarding 'Privacy' above).

A total of 13 unique submissions (two proforma) were received from the following properties:

Table 6: Number of and where submissions were received from.

Count	Property Address
1.	100, 102, 104 Ramsgate Avenue, Bondi Beach (unique)
2.	110 Ramsgate Avenue, Bondi Beach (strata committee) (unique)
3.	2/110 Ramsgate Avenue, Bondi Beach (proforma)
4.	3/110 Ramsgate Avenue, Bondi Beach (proforma)
5.	5/110 Ramsgate Avenue, Bondi Beach
6.	6/110 Ramsgate Avenue, Bondi Beach (unique)
7.	12/110 Ramsgate Avenue, Bondi Beach (unique)
8.	13/110 Ramsgate Avenue, Bondi Beach (unique)
9.	15/110 Ramsgate Avenue, Bondi Beach (unique)
10.	6/77-79 Brighton Boulevard, Bondi Beach (unique)
11.	7/77-79 Brighton Boulevard, Bondi Beach (unique)
12.	8/77-79 Brighton Boulevard, Bondi Beach (unique)
13.	83A Brighton Boulevard, Bondi Beach (unique)
14.	83 Brighton Boulevard, Bondi Beach (unique)

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Bulk and scale (FSR and height)
- Excavation
- Privacy
- Overshadowing
- Streetscape character
- Setbacks
- DCP non-compliances
- View loss
- Increased traffic
- Deep soil
- Pedestrian entry

All other issues raised in the submissions are summarised and discussed below.

Issue: Impact upon street and district views.

**Response:** Street and district views are not considered significant views under *Tenancity Consulting vs. Warringah* [2004] LEC 140.

Issue: Loss of rental and property value.

**Response:** This is not a planning matter.

Issue: Side entry will cause noise and disturbance to adjoining eastern property.

**Response:** Significant impacts as a result of the side entry are not anticipated given that the proposal provides only three apartments. The property is a residential use and the noise associated with such a use in a residential zone is not considered unreasonable. It should be noted that the site is located adjoining a mixed use building with outdoor dining and Bondi Beach and park with associated noise impacts. The subject use is unlikely to result in unreasonable additional noise given the high activity area it is located within.

Issue: Noise from the pool pump.

**Response:** A condition will require that the pool pump is enclosed in a sound-proof enclosure.

Issue: Dilapidation reports should be required.

**Response:** A condition to this effect is included in the consent.

*Issue:* Removal of the mature Tuckeroo in the north-east corner and other trees in the rear of the site will impact privacy and wildlife habitat.

**Response:** Discussions with Council's Tree Manager Officer indicate that the retention of these trees is not supported. Advice received is that the palm is showing significant decay throughout the base and irrespective of the proposed development this palm should be removed. The two *Cupaniopsis anacardioides* (Tuckeroo) trees possess no outstanding attributes worthy of retention. The excavation to allow for the construction of the basement parking and storage facilities will have an impact on these trees. The Tree Management Officer recommended that two local native trees to replace those removed be provided on site. A condition to this effect is included in the consent conditions.

Issue: Loss of light and ventilation.

**Response:** The proposal provides compliant setbacks and light finishes to ensure light and ventilation to surrounding properties.

Issue: Construction impacts.

**Response:** All standard conditions relating to construction are included in the consent conditions. Impacts during construction is not a reason for refusal under the Act.

Issue: A pool is unnecessary with the beach across the street.

**Response:** There are no policies relating to swimming pools near the ocean and as such this is not a reason to amend or refuse the application.

Issue: Air conditioning units and plant are not shown.

**Response:** The plant is shown within the basement.

*Issue:* Impact from any light warning system to the basement car park; Inappropriate driveway location; Queuing on the street for cars to enter basement; loss of on-street parking.

**Response:** These matters have largely been addressed previously in this report. A traffic light system for vehicles entering and exiting the car park is required by condition however given the small scale of the development, this is unlikely to cause unreasonable noise impacts.

#### 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

#### 3. REFERRALS

The following internal and external referral comments were sought:

# 3.1. Waverley Design Excellence Advisory Panel (DEAP)

The application was referred to the Waverley Design Advisory Excellence Panel (DEAP) on 16 March 2022. The DEAP's comment of the proposed development against the nine design quality principles under Schedule 1 of SEPP 65 and a planning response to each comment, where required, are set out in **Table 8** of this report. It is noted that SEPP 65 and the ADG do not apply to this development however the comments below are relevant to the design excellence of the building.

### Table 8: Assessment against the Nine Design Quality Principles under SEPP 65

## **Principle 1: Context and Neighbourhood**

The proposal does achieve this principle however:

• The Panel noted that the Architectural drawing package lacked contextual and neighbourhood character analysis and this important section should be part of the final DA package.

**Planning comment**: The amended plans and documentation provides sufficient information to address this issue.

## **Principle 2: Built Form and Scale**

The proposal does achieve this principle in the following ways:

- The building is respectful of #'s 106 & 110 Ramsgate Avenue in all required setbacks
- The Panel acknowledged the effort the Proponent had made in minimising the impact of the underground garage.

# **Principle 3: Density**

The proposal does achieve this principle in the following ways:

Refer above.

## **Principle 4: Sustainability**

The proposal does achieve this principle in the following ways:

As a method of minimising the carbon footprint of the building, the Panel strongly encourages the following items:

- Exclusion of the use of natural gas in the building for cooktops, spatial heating, and water heating. Instead, the building should use electricity for these items, and the future occupants therefore have the option of purchasing fully sustainable electricity.
- Electric car charging in the garage areas can be allowed for with the provision of separate cabling and charging points, that are linked to the electrical system for the strata component related to each car space. Alternatively, the minimum acceptable approach would be the inclusion of ducting that allows for future cabling and charging systems to be added.
- Use of ceiling fans should be indicated in all bedrooms and living areas in order to minimise the use of air-conditioning.

**Planning comment:** Council does not currently have a policy to support the exclusion of use of natural gas within the building and as such, this cannot be required. A condition regarding electric car charging and ceiling fans in habitable rooms is included in Appendix A.

# Principle 5: Landscape

The proposal does achieve this principle in the following ways:

- The Panel noted that the project team need to coordinate soil depths on the non-accessible landscape courtyards on level 1 and comply with minimum ADG soil requirements for plating over structure
- The Panel noted that the project team should attempt to retain the existing Palm and Tuckeroo's (trees) noted in the Arborists report (Tree T1, T2 & T3) where possible based on the extent of basement etc.
- The Panel noted that where possible the reuse of the existing sandstone block wall be pursued in the rebuilt front garden as this is noted in Council's DCP.
- The Panel noted that in the front and rear gardens the Proponent should consider small to medium sized native canopy trees in appropriate locations, currently the Landscape plans only indicate small shrubs.
- The Panel noted that both side setbacks are nominated as turf overland zones, it was suggested that these zones be planted in suitable low level tufted grasses and ground covers to increase habitat opportunity.

**Planning comment:** A condition regarding soil depth and details of the planters, the retention/reuse of the sandstone is included in Appendix A. The landscape plan includes low level vegetation in the overland flow zones which has been checked by Council's Biodiversity Officer for suitable species in a habitat corridor.

Refer to commentary from the Tree Management Officer regarding removal of trees on site in Section 3.4.

## **Principle 6: Amenity**

The proposal does not achieve this principle in the following ways:

• See comments above.

## **Principle 7: Safety**

The proposal does not achieve this principle in the following ways:

 The Panel noted that the ground level front entry foyer should be enclosed with either a gate or doorway.

**Planning comment:** The amended plans provide a gate at the entry foyer.

## **Principle 8: Housing Diversity and Social Interaction**

The proposal does not achieve this principle in the following ways:

• See previous points.

# **Principle 9: Aesthetics**

The proposal does achieve this principle however:

 The Panel noted that further architectural detailing is required to create a more realistic DA submission in particular more detail is required concerning eave/drainage detailing and balcony screening devices.

**Planning comment:** A condition to this effect is included in Appendix A.

As previously discussed, SEPP 65 and the ADG do not apply to this development and as such a further comment regarding design excellence was provided by the DEAP as follows:

With the amendments recommended within this report, the proposal is considered to be capable of meeting the design principles of SEPP 65 and/or achieve design excellence and does not need to be reviewed again by this Panel.

The amended plans, and recommended conditions of consent, are considered to satisfactorily address the issues raised by the DEAP, where warranted, as discussed in the table above.

# 3.2. Traffic and Development

Conditions were provided which are included in Appendix A.

## 3.3. Stormwater

Conditions were provided which are included in Appendix A.

# 3.4. Tree Management

The following comments were provided:

- Upon on-site inspection it was noted that there were no trees of any significance; they possess no outstanding attributes worthy of retention removal is supported.
- Tree 1 Phoenix dactylifera (Cape Verde Palm): The tree has grown to a height of approximately 8 metres and is supported on a trunk of 60cm. The exposed root flare at the tree's base indicates that the ground level has been altered directly adjacent to it. Extensive visible surface decay has been

noted throughout this area, undermining the tree's structural integrity. The tree's canopy is sparse, indicating that it has continued to struggle to absorb the soil moisture and nutrients required to maintain vigour. This tree possesses no outstanding attributes worthy of retention, removal is supported.

- Trees 2 and 3 Cupaniopsis anacardioides (Tuckeroo) These are a native tree species that will have been planted here as part of more recent works. Both have grown to heights of less than 6m and are supported on trunks of less than 20cm in diameter. These trees possess no outstanding attributes worthy of retention, removal is supported.
- Several *Syzygium australe* (Bush Cherries) less than 3m in height. These trees possess no outstanding attributes worthy of retention, removal is supported.

Further consultation was carried out with the Tree Management Officer regarding the retention of some trees as recommended by the DEAP. The Tree Management Officer was of the opinion that the trees are not worthy of retention given their health or position on the site and should be removed. A condition was recommended that two replacement trees be provided on site and this is included in Appendix A.

## 3.5. Waste and Recycling

Conditions were provided which are included in Appendix A.

# 3.6. Land Information (GIS)

Conditions were provided which are included in Appendix A.

## 3.7. Biodiversity

The following comments were provided and the landscape plan is referenced in the conditions of consent:

The property lies within the identified coastal biodiversity corridor, so under the DCP Section 3.2.2 (a)

A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1.

The landscape plans received on 3 February 2022 comply with this control.

# 4. CONCLUSION

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

## Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 31 May and 5 July 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara and B Magistrale* 

# 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
Huce	
Kylie Lucas	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 28/09/2022	Date: 10 October 2022

# Reason for WLPP referral:

1. Contentious development (10 or more objections)

# <u>APPENDIX A – CONDITIONS OF CONSENT</u>

# A. APPROVED DEVELOPMENT

## 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by MHNDUNION of Project No: 21-032 including the following:

Plan Number	Plan description	Plan Date	Date received by
and Revision			Council
DA 1000 Rev. D	SITE PLAN	11/07/2022	31/08/2022
DA 2000 Rev. D	BASEMENT PLAN	11/07/2022	31/08/2022
DA 2001 Rev. D	GROUND FLOOR PLAN	11/07/2022	31/08/2022
DA 2002 Rev. D	LEVEL 1 FLOOR PLAN	11/07/2022	31/08/2022
DA 2003 Rev. D	LEVEL 2 FLOOR PLAN	11/07/2022	31/08/2022
DA 2004 Rev. D	LEVEL 3 – ATTIC PLAN	11/07/2022	31/08/2022
DA 2005 Rev. D	ROOF PLAN	11/07/2022	31/08/2022
DA 3000 Rev. D	ELEVATION NORTH	11/07/2022	31/08/2022
DA 3001 Rev. D	ELEVATION SOUTH	11/07/2022	31/08/2022
DA 3002 Rev. D	ELEVATION EAST	11/07/2022	31/08/2022

DA 3003 Rev. D	ELEVATION WEST	11/07/2022	31/08/2022
DA 3004 Rev. D	STREET ELEVATION (RAMSGATE	11/07/2022	31/08/2022
	AVENUE)		
DA 3100 Rev. D	SECTION A	11/07/2022	31/08/2022
DA 3101 Rev. D	SECTION B	11/07/2022	31/08/2022
DA 6000 Rev. D	EXTERNAL FINISHES	11/07/2022	31/08/2022
DA 6001 Rev. D	ROOF AND SCREEN DETAILS	11/07/2022	31/08/2022
DA 9300 Rev. D	WASTE MGT PLAN	11/07/2022	31/08/2022
DA 9301 Rev. D	WINDOW SCHEDULE	11/07/2022	31/08/2022

- (b) Landscape Plan No. L-01 L-08 (inclusive) and documentation prepared by Site Design + Studios, dated 17/01/2022 and received by Council on 03/02/2022
- (c) BASIX and NatHERs Certificates
- (d) Arboricultural Impact Assessment and Management Plan prepared by Botanic Tree Wise People Pty Ltd dated September 2021 and received by Council on 03/02/2022
- (e) Geotechnical Report prepared by Crozier Geotechnical Consultants dated 17/08/2022 and received by Council on 31/08/2022
- (f) Traffic Impact Assessment prepared by PDC Consultants dated 20/12/2021 and received by Council on 03/02/2022
- (g) The Site Waste and Recycling Management Plan (SWRMP) Part 1.

Except where amended by the following conditions of consent.

## 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments:

- (a) To reduce privacy impacts upon windows on the adjoining property to the east, privacy screens are to be provided on the eastern side elevations of the rear balconies and designed to mitigate overlooking to adjoining properties. The privacy screens are to be of a lightweight material (such as timber or obscure glazing) and be a minimum of 1.6m high when measured from the finished floor level of the balcony. The rear balconies at Level 1 and Level 2 are to be reduced in width by 600mm.
- (b) To reduce privacy impacts upon windows on the adjoining property to the east, privacy screens are to be provided on the eastern side elevations of the front balconies at Level 1 and Level 2 and designed to mitigate overlooking to adjoining properties. The privacy screens are to be of a lightweight material (such as timber or obscure glazing) and be a minimum of 1.6m high when measured from the finished floor level of the balcony.
- (c) To reduce privacy impacts upon the adjoining property to the east, a 1.4m wide planter is to be included on the eastern side of the attic level balcony to match the planter on the western side.
- (d) The side and rear boundary fencing (except the side returns within the front setback) shall not exceed a height of 1.8m from the existing ground level of the corresponding adjoining site.
- (e) Ceiling fans are to be provided in all habitable rooms.

- (f) Electric car charging is to be provided within the basement carpark for with the provision of separate cabling and charging points, that are linked to the electrical system for the strata component related to each car space. Alternatively, the minimum acceptable approach would be the inclusion of ducting that allows for future cabling and charging systems to be added.
- (g) The existing sandstone wall to the Ramsgate Avenue frontage shall be retained and or reinstated (i.e. stone salvaged and reused on site). Any replacement stone shall be of a suitable quality to match the existing and adjoining walls. The wall is to be a block work wall and not a clad wall. The wall shall be constructed using appropriate tradesmen skilled in traditional block work construction.
- (h) Further architectural detailing is required in particular in regard to eave/drainage detailing and balcony screening devices.

The amendments are to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

#### 3. GENERAL MODIFICATIONS - LANDSCAPE PLANS

The application is approved subject to the following landscape plan amendments:

- (a) The landscape planters are to have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species.
- (b) To compensate for the loss of canopy cover by the removal of trees on the site, two local native trees are to be planted within the rear yard of the site. The two replacement trees must be a local native of 75 litre pot size and grow to a minimum height of five metres at maturity. The two trees are to be planted prior to the issue of any Occupation Certificate.

The amendments are to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

## **B.** PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

## **GENERAL REQUIREMENTS**

# 4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

## **CONTRIBUTIONS, FEES & BONDS**

### 5. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

A cost report indicating the itemised cost of the development shall be completed and submitted to Council:

- (i) Where the total development cost is less than \$500,000:
  - "Waverley Council Cost Summary Report"; or,
- (ii) Where the total development cost is \$500,000 or more:
  - "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (a) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - i. A development valued at \$100,000 or less will be exempt from the levy;
  - ii. A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - iii. A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

## 6. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$39 460 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works

and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### 7. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **PLAN DETAILS**

#### 8. BASEMENT STORAGE

The basement level is to provide separate and secure storage areas (in the form of lockable storage cages, over-bonnet/car storage or the like), allocated to each apartment in the development. Storage is to be allocated to individual units in accordance with the requirements of the Waverley Development Control Plan 2012.

## **CONSTRUCTION & SITE MATTERS**

## 9. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

#### 10. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

## 11. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

#### 12. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### 13. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING AND MIXED USE DEVELOPMENTS

Evidence is to be provided to the Principal Certifying Authority that arrangements have been made for;

- (a) The installation of fibre-ready facilities to all individual lots and/or premises to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises demonstrated through an agreement with a carrier.

#### 14. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate. Please make early contact with the Coordinator, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

### TRAFFIC MANAGEMENT

### 15. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development\_applications/post\_determination/development\_applications - conditions of consent\_

## **STORMWATER & FLOODING**

#### 16. STORMWATER MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plans prepared by Drawing No. D01 – D04, Revision A, dated 17/01/2022 by NB Consulting Engineers (Job Ref. 210833) are considered <u>conceptual.</u>

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall be amended to provide details of a On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- c) Seepage water must not be directly or indirectly discharged to Council's street gutter.

- d) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided
- f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- g) A sediment control stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- h) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of any OSD system).
- i) Show an alarm system in the event of the basement pump-out system failing. A warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement. A minimum freeboard of 150 mm from the pump out system to all parking spaces, full hydraulic details and pump manufacturers specification are to be provided.
- j) To protect the underground basement from possible inundation by surface waters from the street gutter and footpath overflows, a crest shall be installed at the boundary.
- k) The current stormwater design proposes to transfer seepage water collected via sub soil drainage pipes installed throughout the permitter of the basement. It is Council requirement for the Seepage water not be directly or indirectly discharged to Council's street gutter. For this the applicant must either:
  - i. Show sub-soil drainage being restricted from entering the basement areas of the building and the stormwater drainage system by waterproofing and tanking the basement areas of the building in accordance with a Registered Structural Engineer's design.
  - ii. The stormwater plans to be amended with the current kerb outlet discharge removed and piped to the underground stormwater drainage system.
- I) A grated trench drain is recommended across the (garage entrance/driveway/street boundary) within private property. Unless otherwise sized by a suitably qualified and practising Engineer, the dimensions of the trench grate shall be no less than 300 mm wide by 100 mm deep at the shallow end and have a "bottom" slope of 2%. This trench drain shall be connected to an approved drainage system.
- m) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

#### Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any
  additional damage or unauthorised works within the Council property, not conditioned above.
   Council will reserve the right to withhold the cost of restoring the damaged assets from the security
  deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: <u>assets@waverley.nsw.gov.au</u> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

#### **17. FLOODING REQUIREMENTS**

The property is on land identified as a medium flood risk property under the Council endorsed Waverley LGA Flood Study 2021. The proposed development must have a net neutral effect on flood behaviour. This includes increasing flood effects elsewhere, loss of flood storage, changes in flood levels, flows and velocities caused by alterations to the flood conveyance, and the cumulative impact of neighbouring developments. To ensure this has been considered, the submitted architectural plans will need to be updated to reflect the following and approved by Council prior to Construction Certificate:

- A suitably qualified and practising Engineer must provide a report certifying that the development will not have and adverse flood effects for the subject site and any surrounding neighbours.
- The recorded Minimum and Maximum 1% AEP level for the subject site is 9.22m and 10.74m
- The minimum recommended habitable finished floor level is 9.52 m AHD, given there is clear passage for overland flow water to exit from the rear of the property.
- All new building material must be flood resistant or flood compatible to a height of 9.52 m AHD.
- Any proposed fencing must be built using flood compatible material.
- There is to be no filling of the land within the property.

Details and certification must accompany the Construction Certificate and be submitted to Waverley Council.

#### 18. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

#### **ENERGY EFFICIENCY & SUSTAINABILITY**

#### **19. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

#### **WASTE**

#### 20. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

#### 21. WASTE STORAGE AREAS

The development must have a bin storage area with sufficient space to accommodate the following minimum number of bins for the residential components of the development;

#### Residential:

- o 2 x 240L Mobile Garbage Bins (MGBs) for general waste (collected weekly)
- 2 x 240L MGBs for paper and cardboard recycling (collected fortnightly)
- o 2 x 240L MGBs for container recycling (collected fortnightly)
- o 1 x 240L MGB for garden organic waste should this be generated at the development.
- A minimum of 4m<sup>2</sup> is required for the on-site storage of bulky waste awaiting collection.
- A minimum of 1m<sup>2</sup> is required for additional problem waste awaiting collection.
- All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the Waverley Council Development Control Plan 2012 to the satisfaction of the Principal Certifying Authority.

### C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

#### **PRIOR TO ANY WORKS**

#### 22. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### 23. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

#### **DEMOLITION & EXCAVATION**

#### 24. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### 25. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

#### 26. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

#### 27. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

#### **CONSTRUCTION MATTERS**

#### 28. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) Sundays and public holidays.
- (b) Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

#### 29. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### 30. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

#### 31. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002,* clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

#### **32. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to the construction of a higher level of the building.

#### 33. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### 34. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete.
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 Wiring Rules.
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit.
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans must be submitted to Sydney Water at least 14 days prior to commencement of building operations.

#### 35. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

#### **VEHICLE ACCESS**

#### **36. NEW VEHICLE CROSSING**

A new vehicle crossing is to be provided to access the proposed basement car park. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

#### 37. EXISTING VEHICLE CROSSING IS TO BE CLOSED

The existing vehicle crossing is to be closed and all work associated with the closure is to be carried out with the approval of, and in accordance with, the requirements of Council.

#### 38. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH

The finished level at the property boundary on **both** sides of the vehicle crossing is to be **50mm above** the level of the existing concrete footpath.

### D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### 39. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **40. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### 41. CERTIFICATION OF LANDSCAPING

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

#### 42. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

- (a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, detention facility, rainwater reuse facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- (b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### 43. ON-SITE STORMWATER DETENTION CERTIFICATION

The submission of certification by a suitably qualified and practising Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of any Occupation Certificate.

#### 44. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### 45. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of any pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

#### 46. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<a href="http://www.swimmingpoolregister.gov.au">http://www.swimmingpoolregister.gov.au</a>);

- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

#### 47. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

#### **MANAGEMENT PLANS**

#### 48. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include the following where relevant.

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) The role and responsibility of managing composting facilities (if provided).
- (d) Clear signage identifying the different bin types and storage area for bulky household waste and problem waste must be displayed.
- (e) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (f) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (g) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (h) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan.
- (i) At no times shall bins be stored on the public domain (e.g. footpaths).

#### **VEHICLE ACCESS AND PARKING**

#### 49. CAR PARKING

A total of 5 car parking spaces are to be provided within the development, allocated in the following manner:

- a) 4 residential parking spaces
- b) 1 visitor space
- c) 2 motorcycle spaces

Car parking spaces are to be allocated with the rates specified in the DCP, with no more than 2 spaces allocated to any residential unit/dwelling with 3 or more bedrooms. All car spaces are to be appropriately signposted and parked.

Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.

#### **50. BICYCLE PARKING**

A **minimum** of 3 bicycle parking spaces are to be provided within the development.

The bicycle spaces are to be designed in accordance with Australian Standard AS2890.3 - 2015 Parking Facilities - Bicycle Parking.

The bicycle spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the basement car parking area. Signage and line-marking (way finding) is to be provided to guide visitors to the allocated bicycle parking spaces to ensure a safe path of travel to the bicycle spaces (separate to cars). Details of this are to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate.

#### 51. VEHICLE PRIORITY/TRAFFIC LIGHT SYSTEM

A vehicle priority system shall be provided. Details are to be shown in documentation and on plans to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate.

#### **52. VEHICLE ACCESS**

All vehicles including service vehicles entering and exiting the site are to do so in a forward direction.

#### 53. HEADROOM CLEARANCE

The headroom clearance on the driveway and within the carpark for access to car parking spaces is to be a minimum of 2.2 metres in general and 2.5 metres above the disabled parking spaces and shared zones for the car parking spaces.

#### **OTHER MATTERS**

#### **54. ALLOCATION OF STREET NUMBER**

The redevelopment of the property has led to the following allocation of primary and sub-premises (unit) numbering:

- No. 108 primary address site number
- Ramsgate Avenue primary address location.

The primary address site number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the pedestrian entry point and be clearly visible on the site boundary that fronts Ramsgate Avenue.

The following sub-addressing will apply:

 Nos. 1-3 for the residential sub-address sites within the building correlating with Nos. 1-3 on the floor plans for the building.

The address number for a sub-address site shall not consist of the primary address number on its own. Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

The primary and sub-address site numbers are to be positioned on the site prior to the issue of the Occupation/Subdivision Certificate.

Any variation to the above premises numbering requires a new application for a Change of street number and/or location to be lodged with Council.

#### **E.** OPERATIONAL MATTERS

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

#### 55. RAINWATER HARVESTING AND REUSE

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

#### 56. WASTE MANAGEMENT PLAN REVIEW

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

#### **57. VEHICLE ACCESS**

All vehicles including service vehicles entering and exiting the building are to do so in a forward direction.

Any vehicle utilising a car, motorcycle or bicycle space is to be parked fully within the confines of the site and is not to park over the public footway at any time.

#### **ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to <a href="mailto:info@waverley.nsw.gov.au">info@waverley.nsw.gov.au</a> or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### AD2. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in

NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on 1800 810 443.

#### AD4. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### AD5. BONDI - ROSE BAY SAND BODY

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

#### AD6. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### **AD7. SITE RECTIFICATION WORKS**

The vacant site is to be maintained in a safe and secure manner. Fencing is to be erected around the permitter of the site once demolition has been completed to secure the site. The site is to be protected from windblown soil loss and stormwater erosion at all times.

If the site is commenced to be developed and there is suspension in activity for 6months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:

- (i) Require certain works to be carried out, including but not limited to:
  - (a) Make the building/site safe and of an appearance acceptable to Council;
  - (b) Allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point;
  - (c) For the hole to be covered to allow it to be landscaped and made attractive from any public vantage point.
  - (d) Council may call on any bank guarantee to cover the cost thereof.
- (ii) In the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the costs of the works.

PROJECT
THREE NEW APARTMENTS, ASSOCIATED LANDSCAPING WORKS AND BASEMENT

### 108 RAMSGATE AVENUE, **BONDI BEACH, NSW**

Drawing Number	Drawing Name	Revision	Date
DA 0000	COVERPAGE	D	11/07/22
DA 1000	SITE PLAN	D	11/07/22
DA 1001	SITE ANALYSIS PLAN	D	11/07/22
DA 2000	BASEMENT PLAN	D	11/07/22
DA 2001	GROUND FLOOR PLAN	D	11/07/22
DA 2002	LEVEL 1 FLOOR PLAN	D	11/07/22
DA 2003	LEVEL 2 FLOOR PLAN	D	11/07/22
DA 2004	LEVEL 3 - ATTIC PLAN	D	11/07/22
DA 2005	ROOF PLAN	D	11/07/22
DA 3000	ELEVATION NORTH	D	11/07/22
DA 3001	ELEVATION SOUTH	D	11/07/22
DA 3002	ELEVATION EAST	D	11/07/22
DA 3003	ELEVATION WEST	D	11/07/22
DA 3004	STREET ELEVATION (RAMSGATE AVENUE)	D	11/07/22
DA 3100	SECTION A	D	11/07/22
DA 3101	SECTION B	D	11/07/22
DA 6000	EXTERNAL FINISHES	D	11/07/22
DA 6001	ROOF AND SCREEN DETAILS	D	11/07/22
DA 9100	GFA - DIAGRAMS	D	11/07/22
DA 9101	LANDSCAPE AND DEEP SOIL CALCULATION	D	11/07/22
DA 9200	SOLAR ACCESS 9am & 10am - JUNE 21st	D	11/07/22
DA 9201	SOLAR ACCESS 11am & 12pm - JUNE 21st	D	11/07/22
DA 9202	SOLAR ACCESS 1pm & 2pm - JUNE 21st	D	11/07/22
DA 9203	SOLAR ACCESS 3pm & 4pm - JUNE 21st	D	11/07/22
DA 9300	WASTE MGT PLAN	D	11/07/22
DA 9301	WINDOW SCHEDULE	D	11/07/22

Receipt No: DA-45/2022

Date Received: 31/08/2022



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WASHERS:	# STAR
TAPS:	# STAR
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RUN OFF AREA:	IIII sqm
PED AREA TO IRRIGATE:	
OPTIONS	
	Insert Phase, EER Rating
	& Day/Night Zoning Areas

ARCHITECT: 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1110 www.mhndu.com

DRAWING TITLE: COVERPAGE

PROJECT ADDRESS: 108 RAMSGATE AVENUE, NSW BONDI **BEACH 2026** 

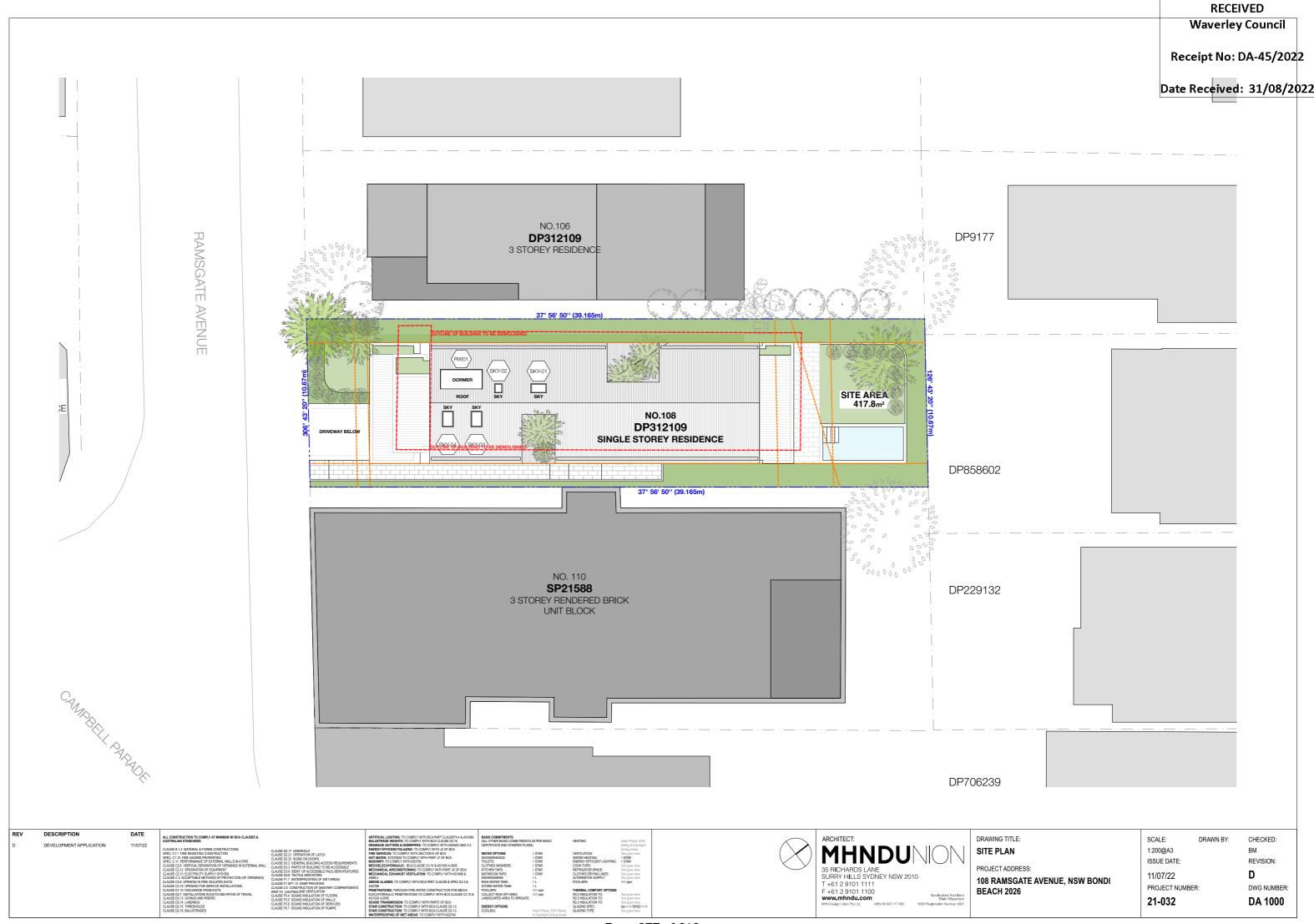
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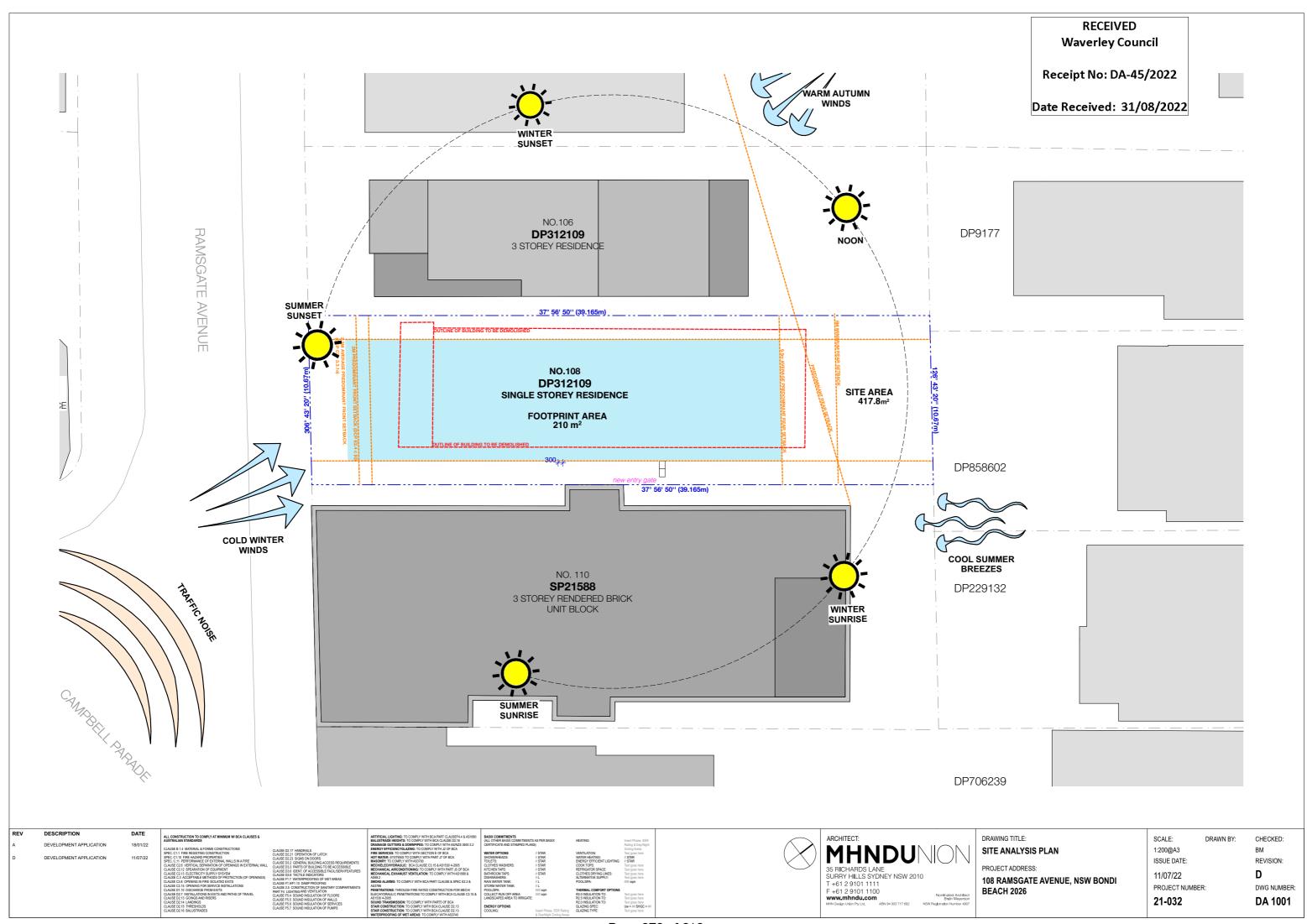
21-032

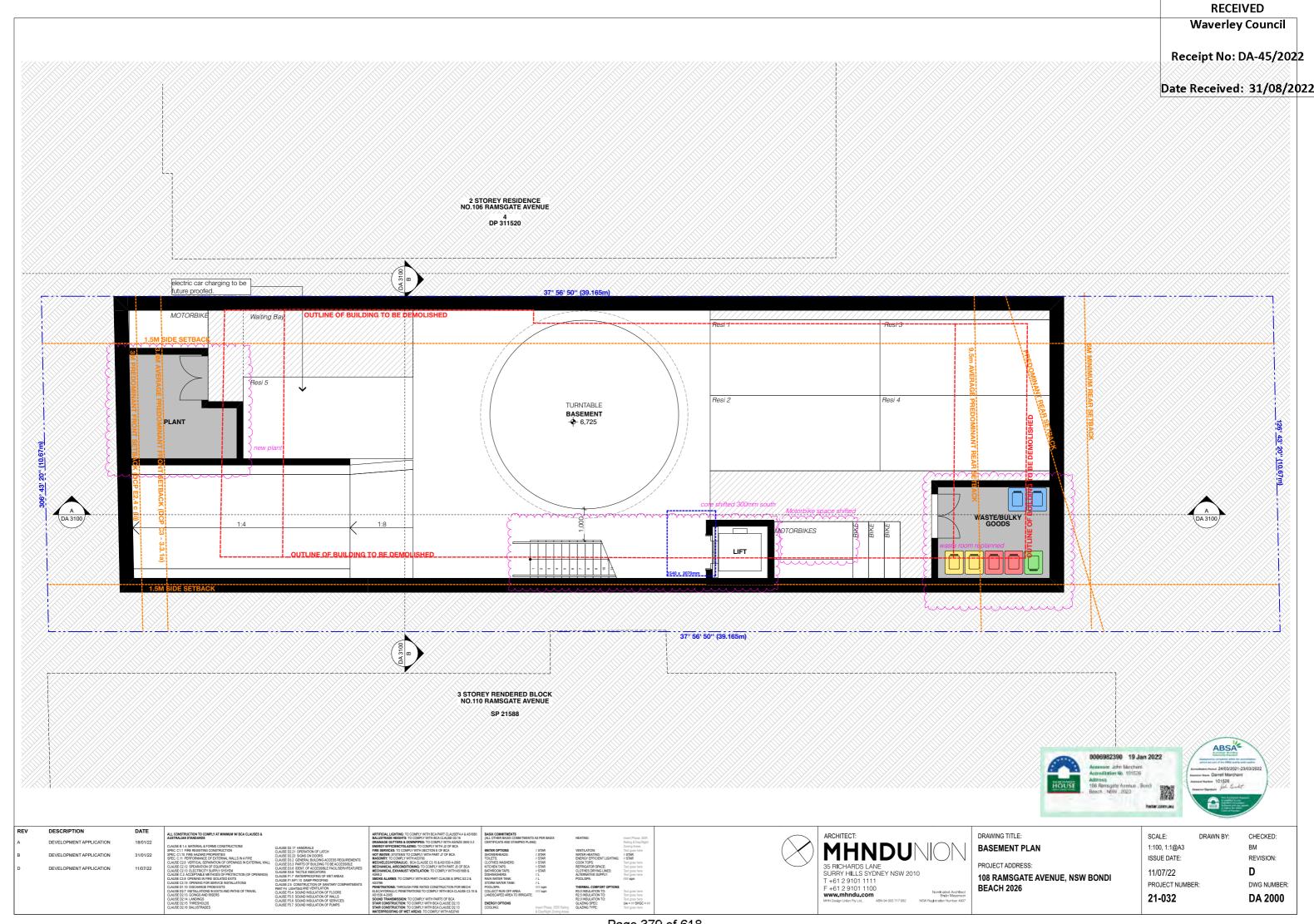
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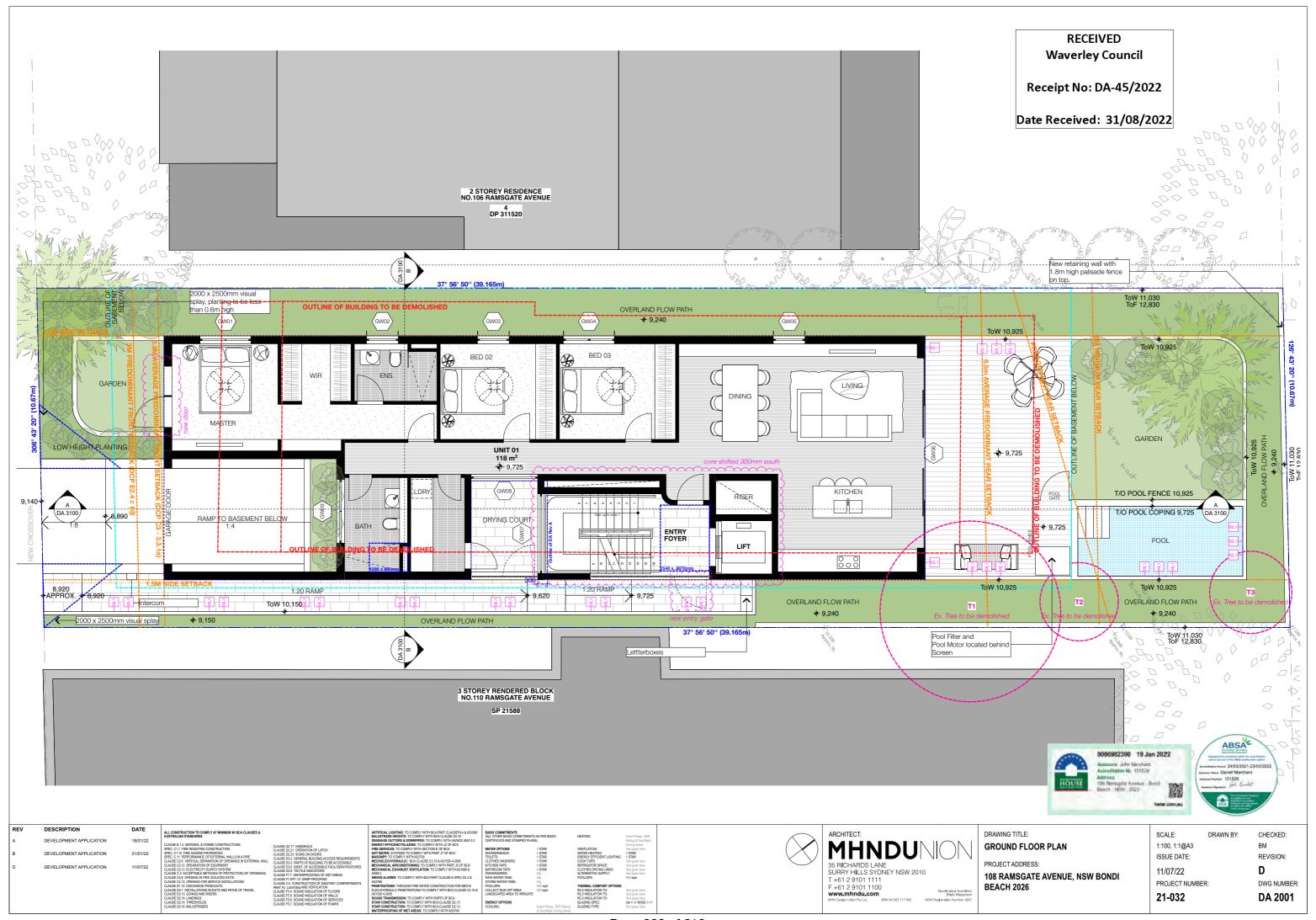
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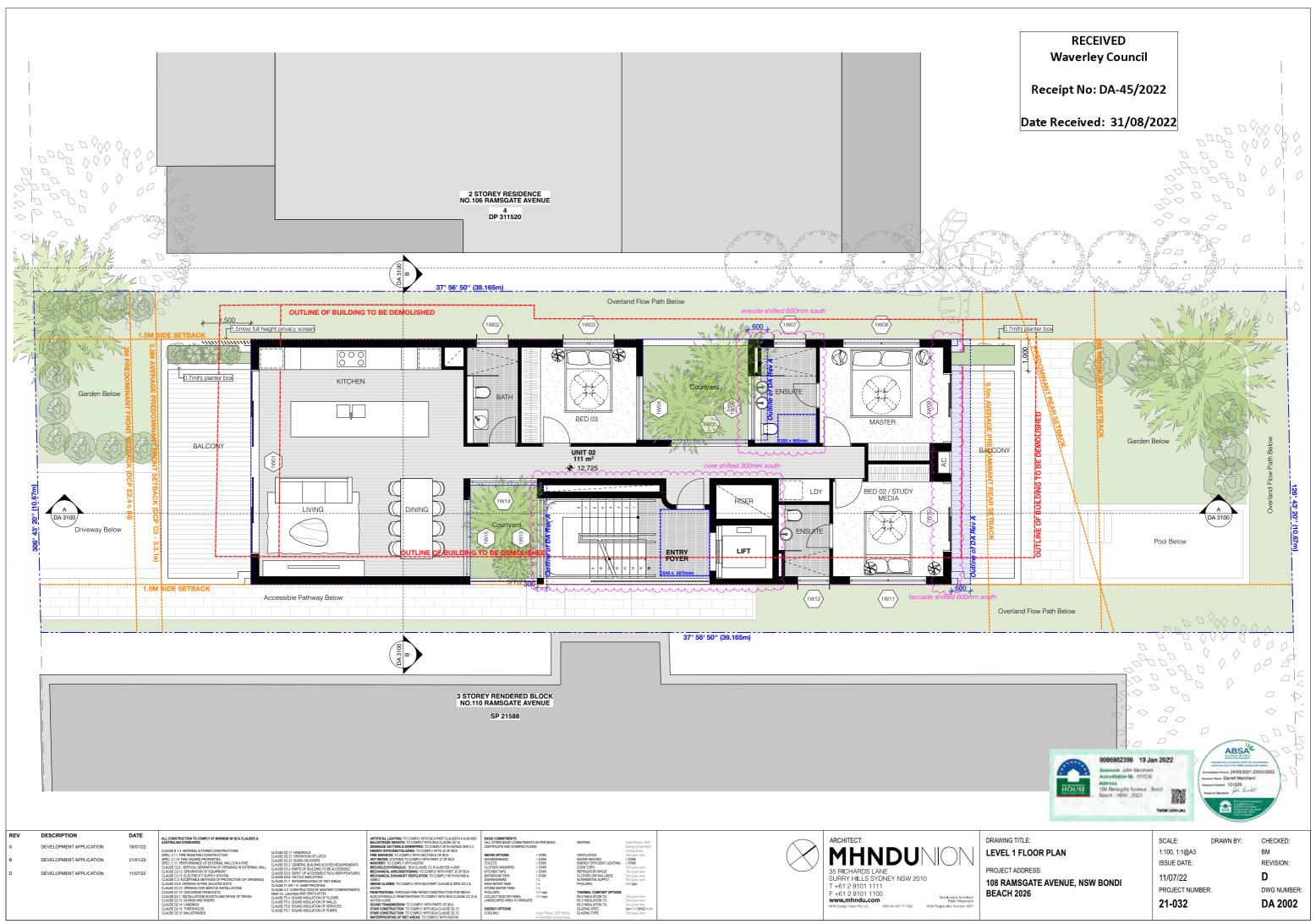
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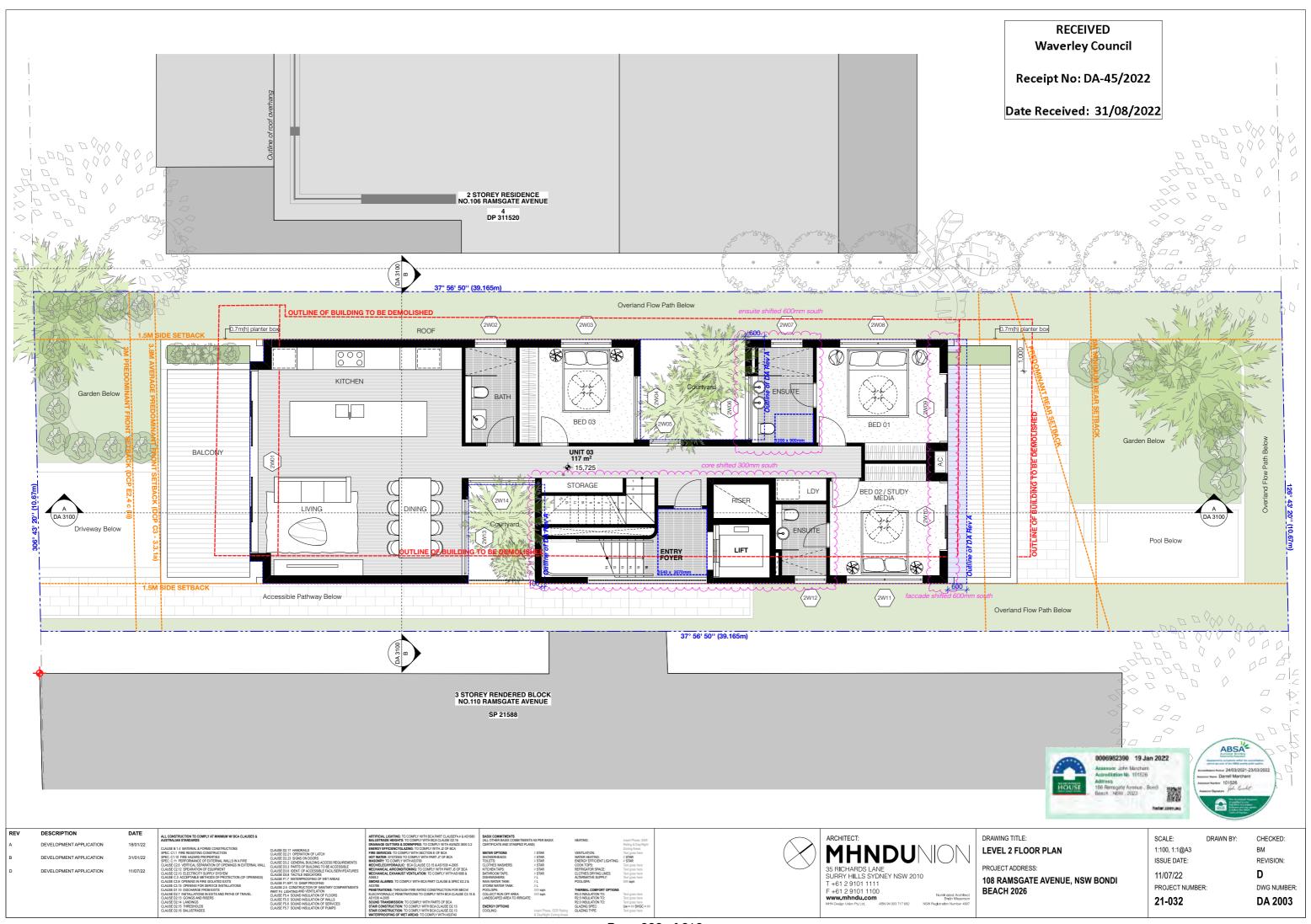


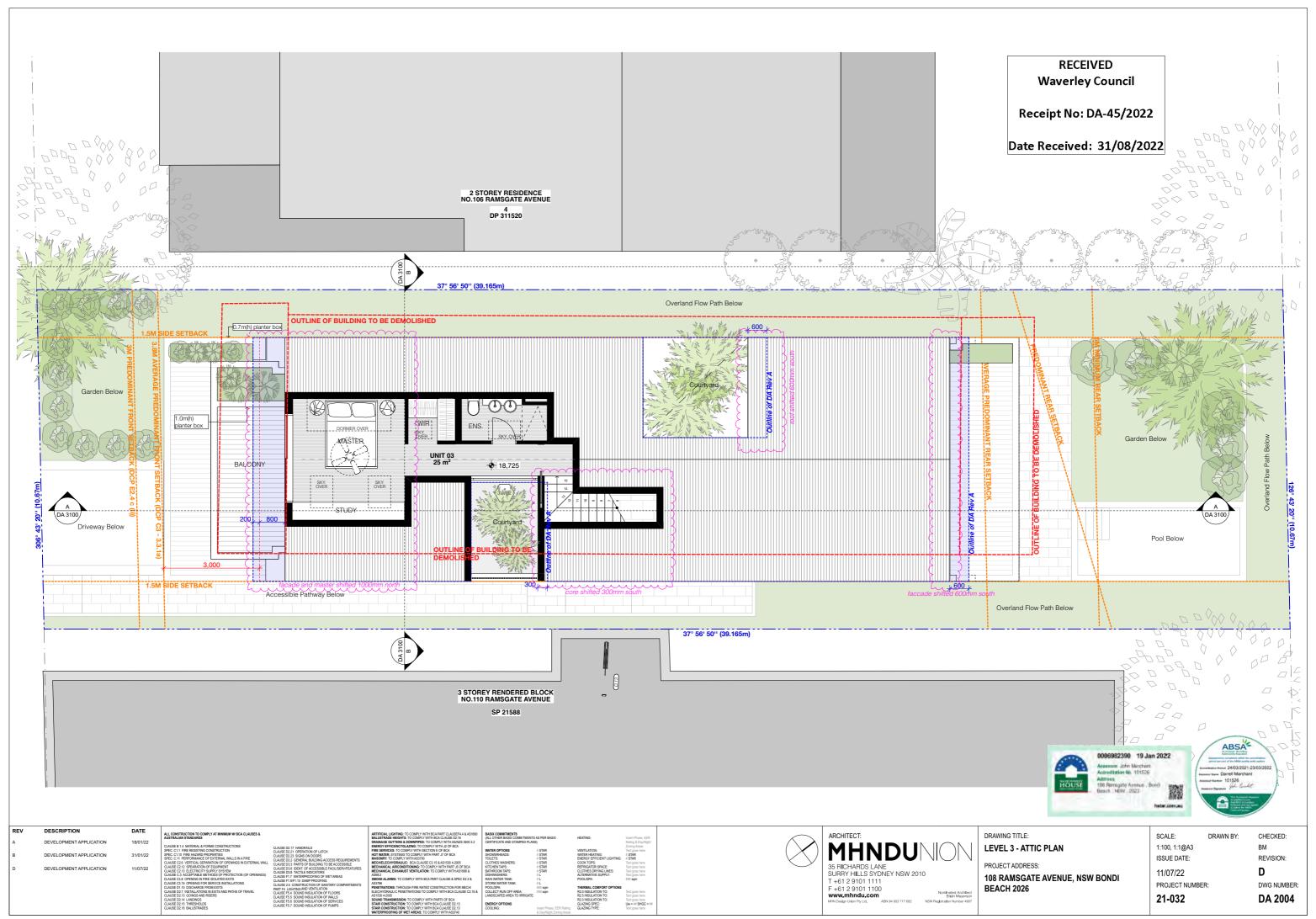


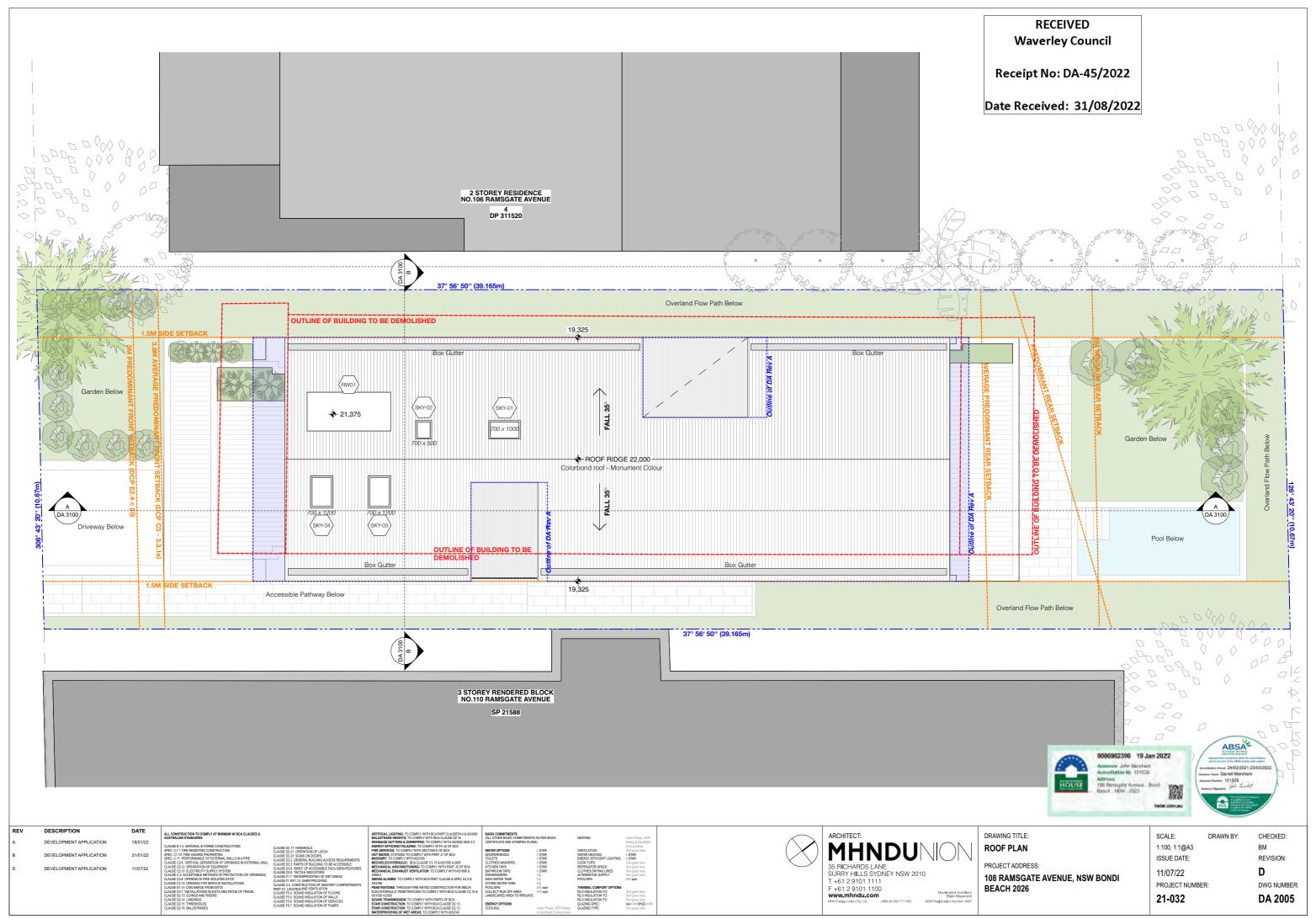


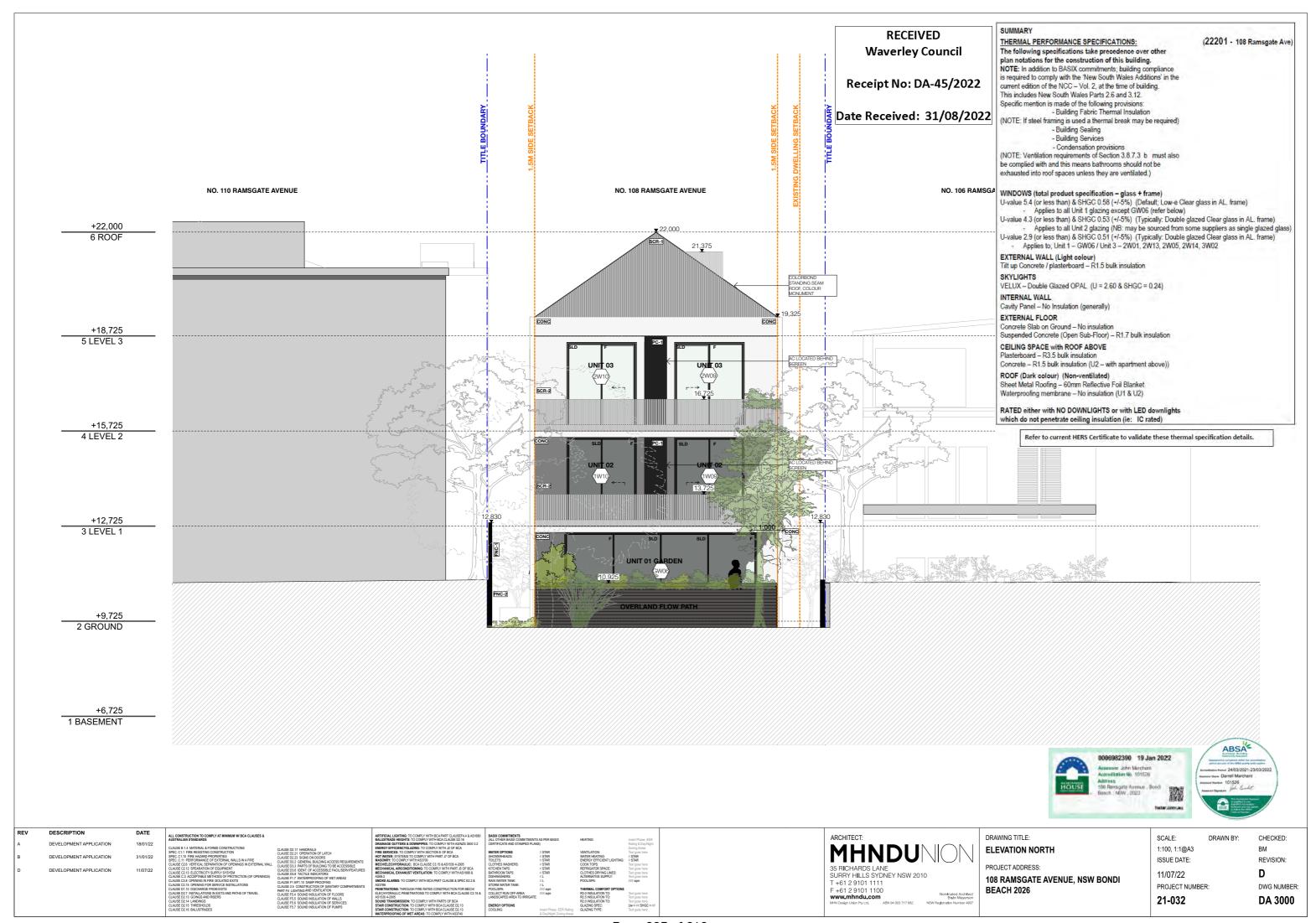


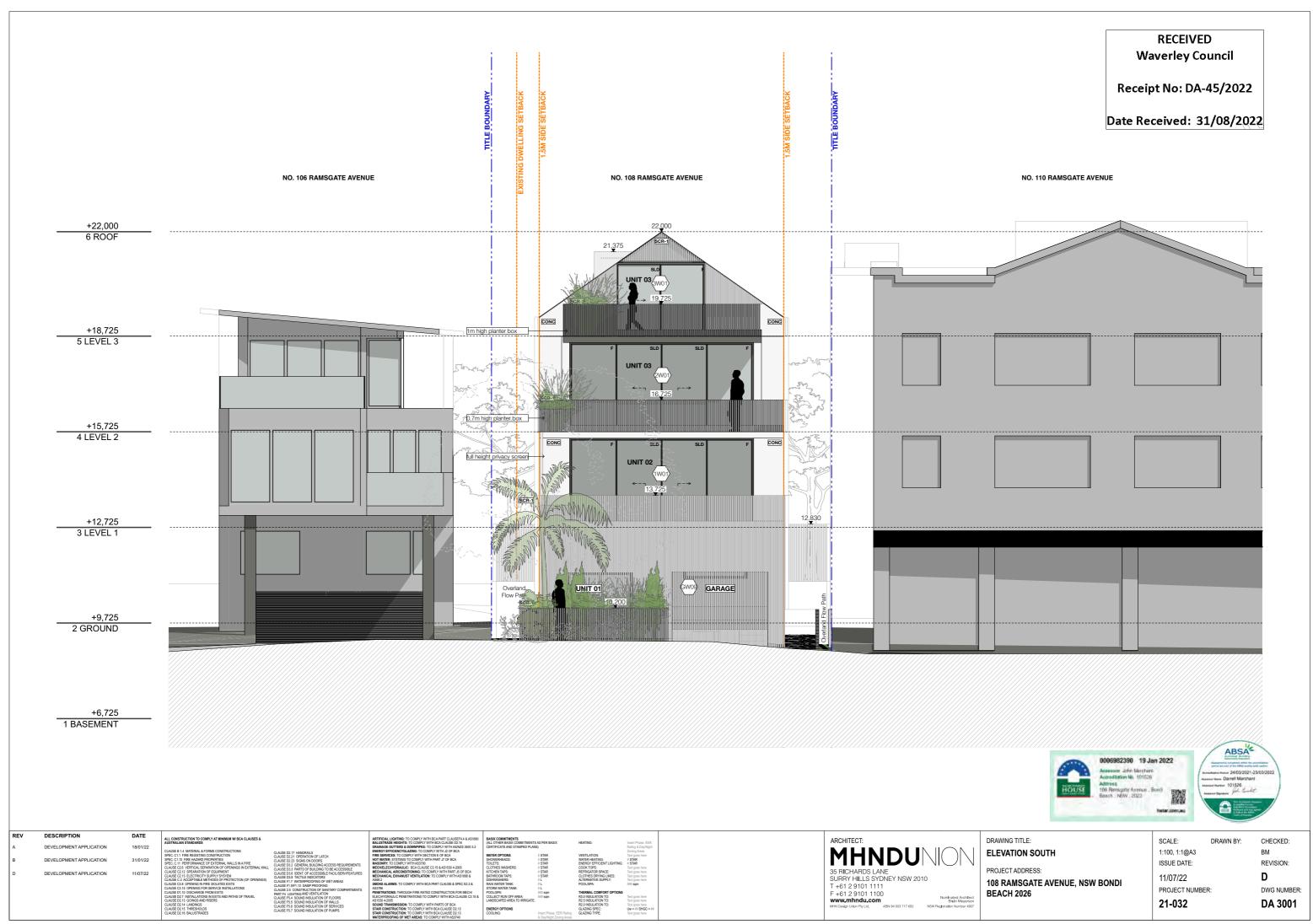


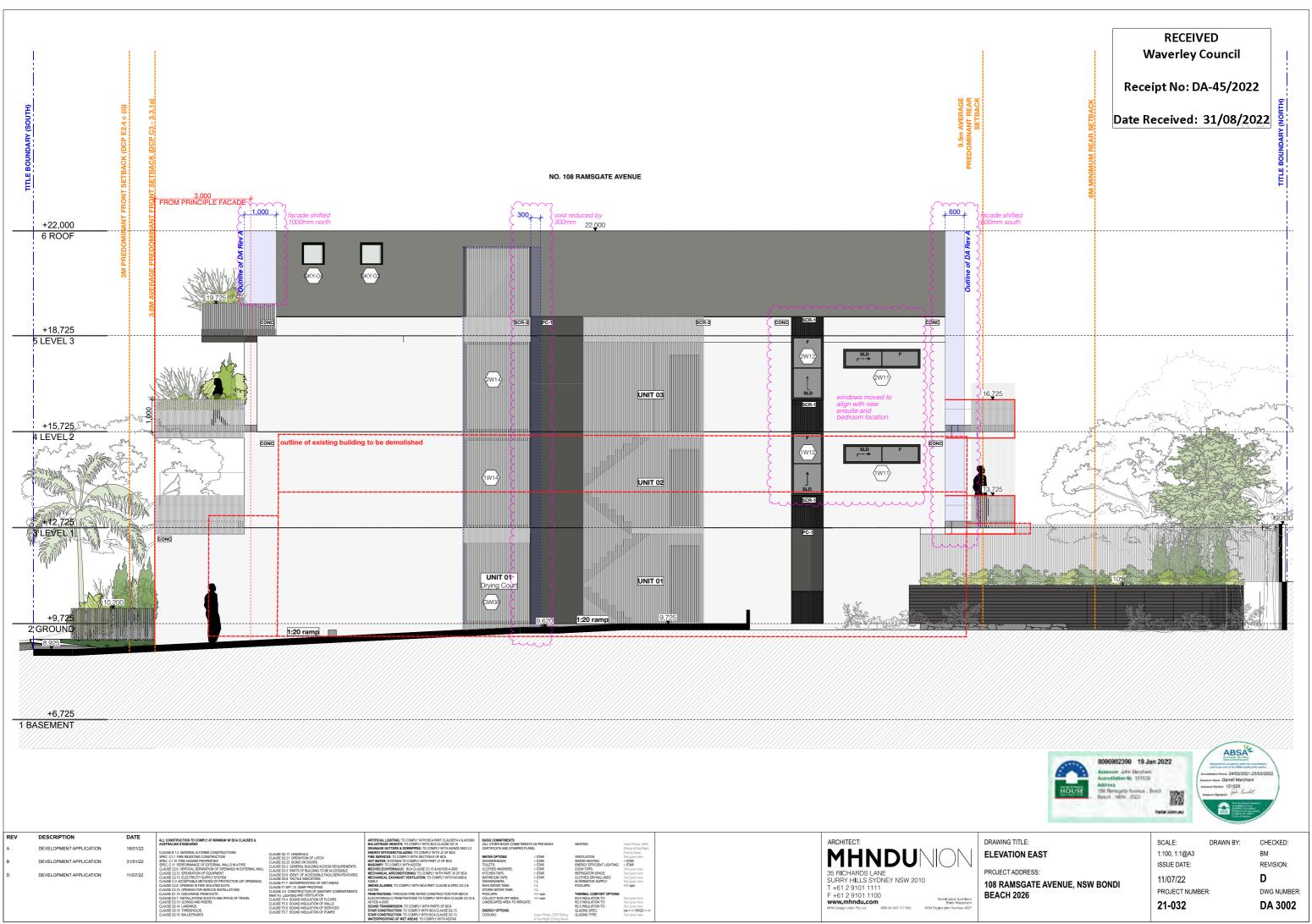


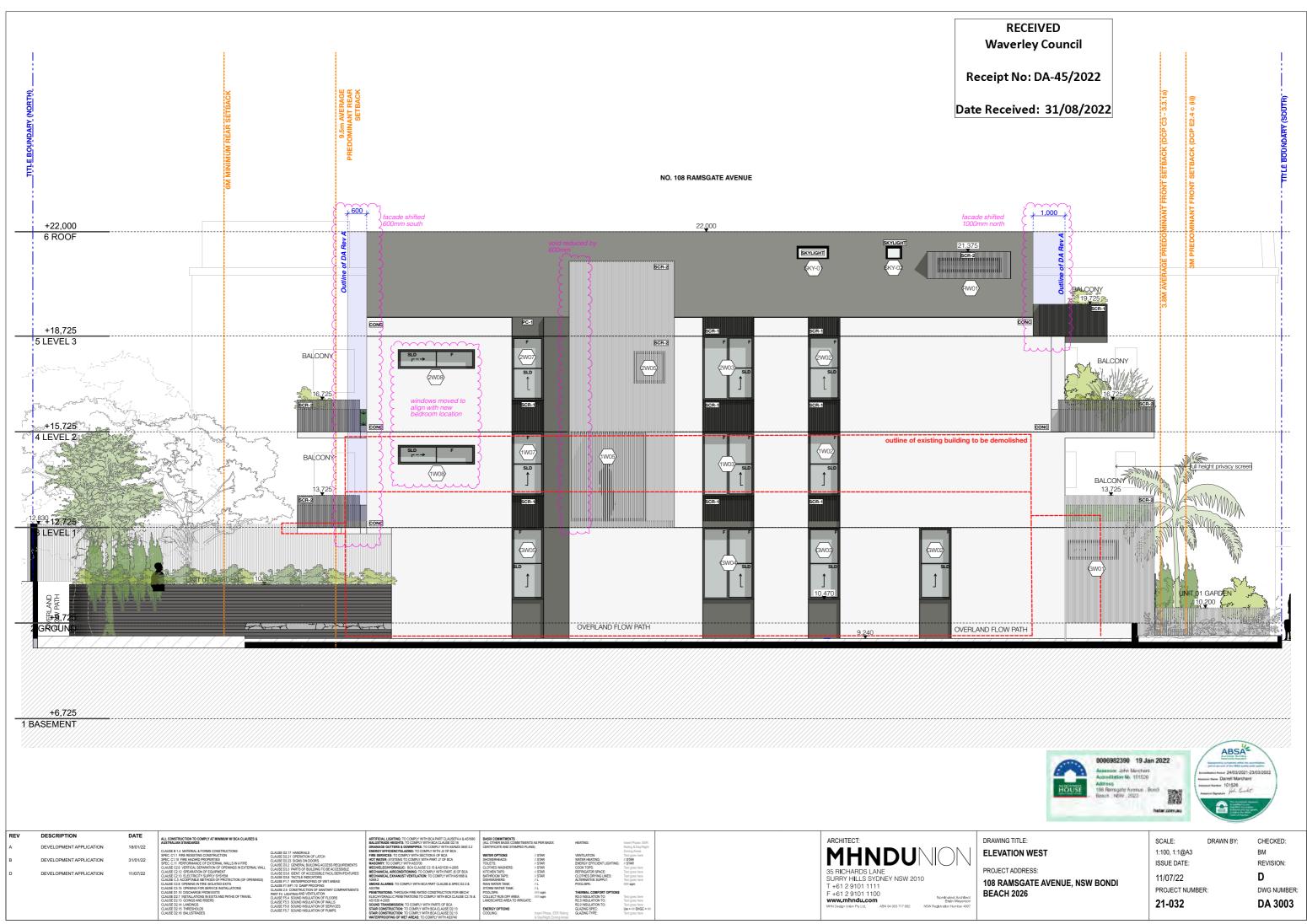


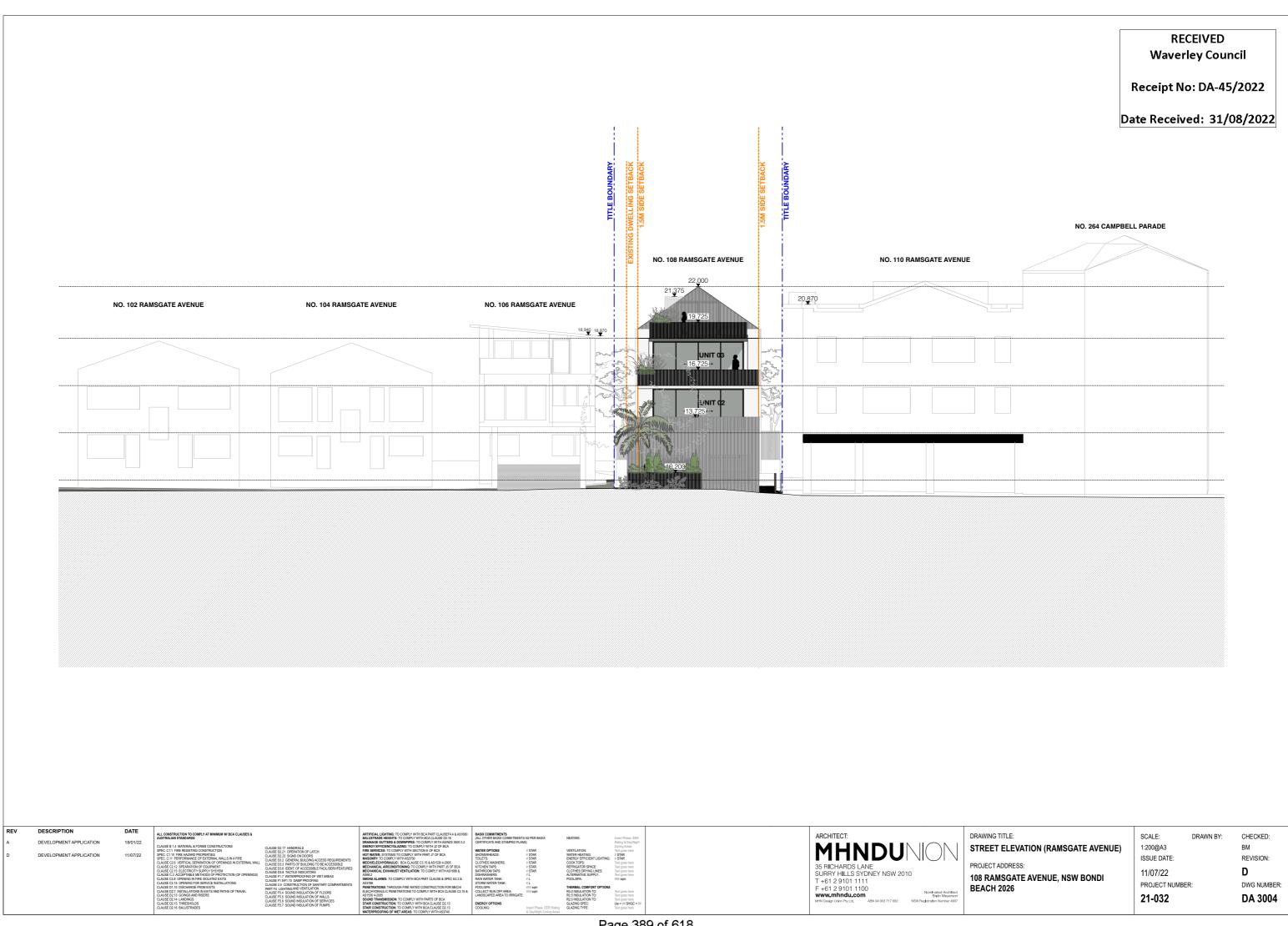


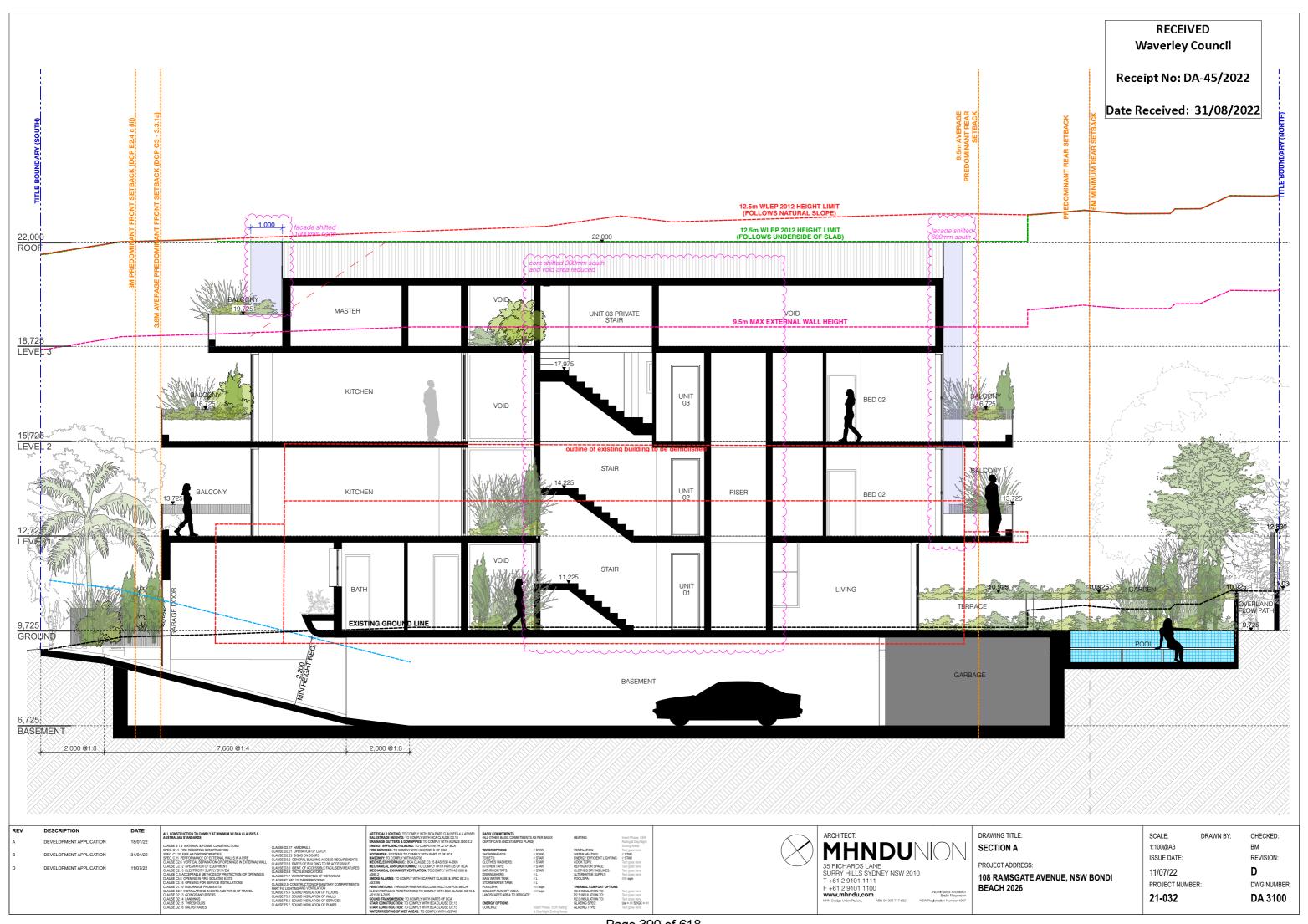


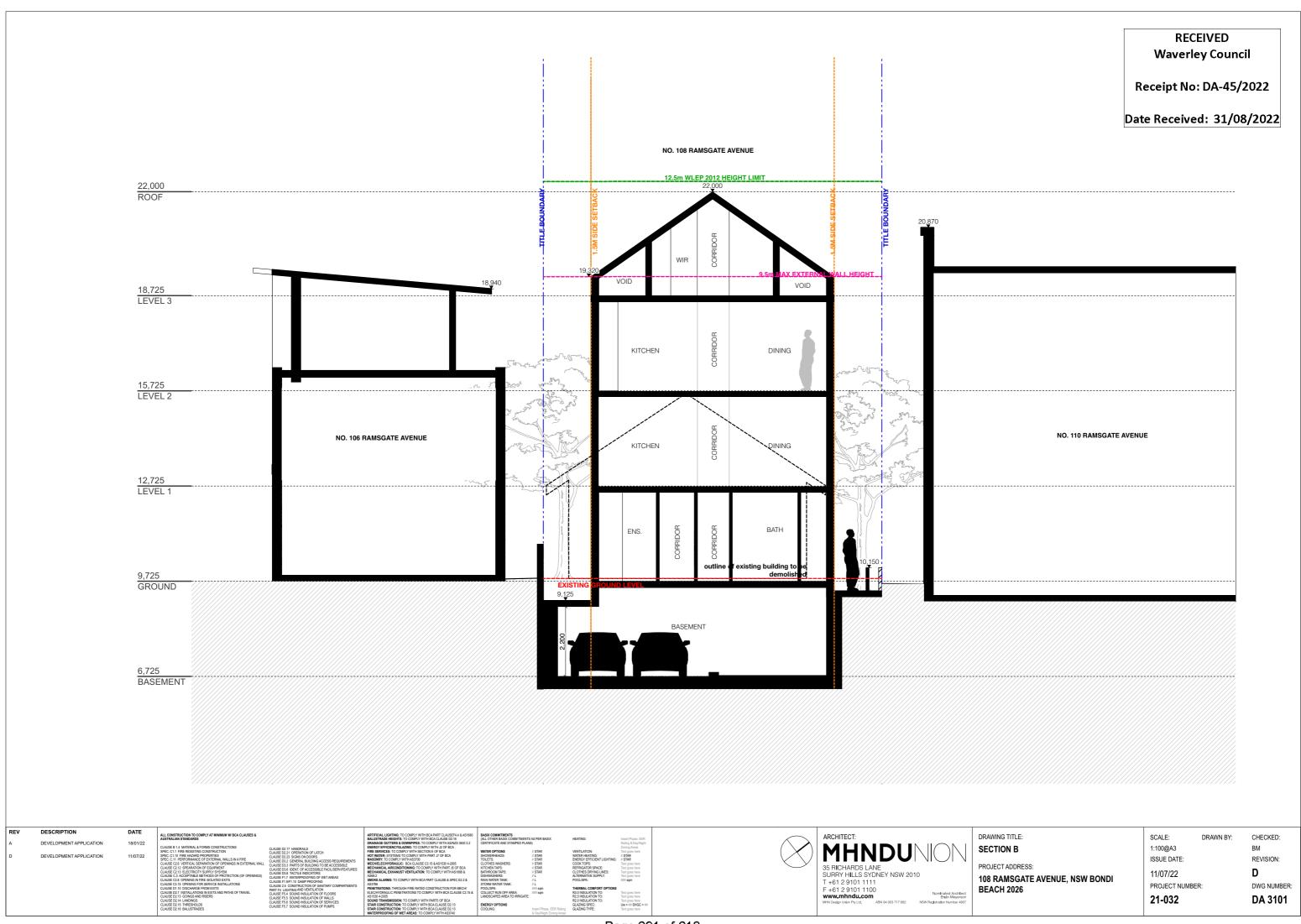








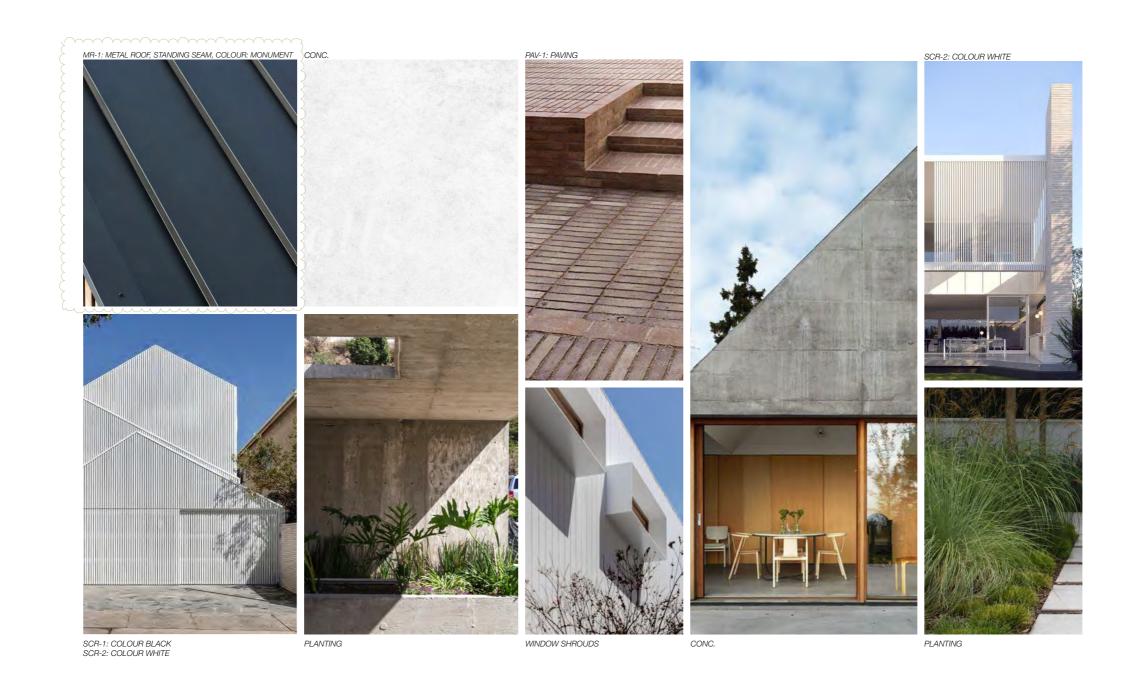




### RECEIVED **Waverley Council**

Receipt No: DA-45/2022

Date Received: 31/08/2022



142	DECORAL FICH
A	DEVELOPMENT APPLI
D	DEVELOPMENT APPLI



**EXTERNAL FINISHES** PROJECT ADDRESS: 108 RAMSGATE AVENUE, NSW BONDI

DRAWING TITLE:

**BEACH 2026** 

SCALE: DRAWN BY: 1:2, 1:1.07, 1:1, 1:1.77, 1:0.75, 1:2,85, 1:2.08, 1:2.79@A3 11/07/22

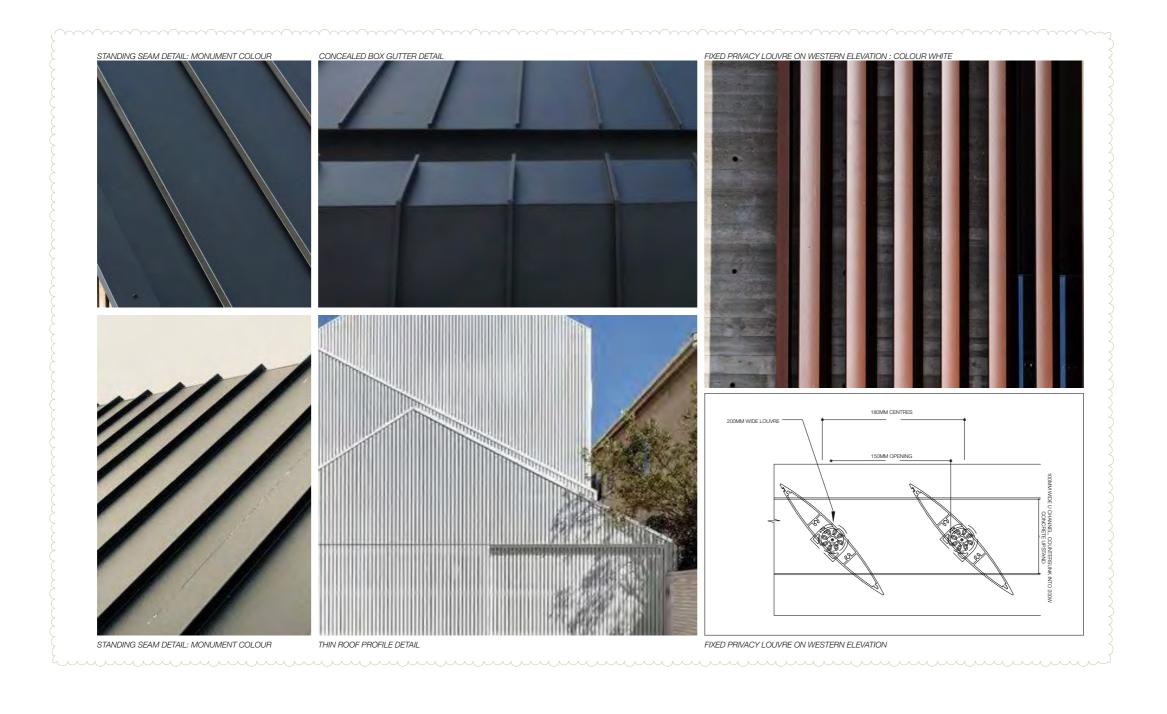
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## RECEIVED

Waverley Council

Receipt No: DA-45/2022

Date Received: 31/08/2022



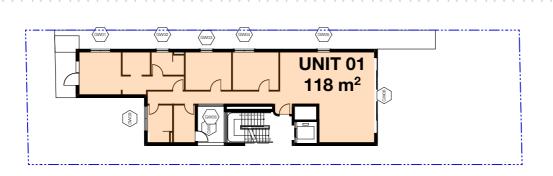
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D	DEVELOPMENT APPLICATION	11/07/22	CAUSE B 1-4 MMTRBUL & FORMS CONSTRUCTIONS SPEC. C11 FREE RESISTING CONSTRUCTIONS SPEC. C11 FREE RESISTING CONSTRUCTION CLUSE B 22 FORMS FOR SPEC. C11 FREE RESISTING CONSTRUCTION CLUSE C21 SPEC. C11 FREE RESISTING CONSTRUCTION CLUSE C21 SPEC. C11 FREE RESISTING CONSTRUCTION CLUSE C21 SPEC. C11 FREE RESISTING CONSTRUCTION CLUSE C23 FORMS FOR SPEC. C11 FREE RESISTING CONSTRUCTION CLUSE C23 FORMS FOR SPEC INSTITUTION C	DAMAGE QUITTERS & DOWNIPPES: TO COMPY WITH JOS 3500 3.2 ENERGY SPECIOLENCY ACADISE. TO COMPY WITH JOS 500 3.2 ENERGY SPECIOLENCY ACADISE. TO COMPY WITH JOS 500 3.2 ENERGY SPECIAL SPE	CERTIFICATE AND STAMPED PLA WATER OPTIONS SHOWERFEADS. TOLLETS SHOWERFEADS. TOLLETS BATHROUGH TAPES LANGESPACED AREA TO TRIPIGATE BERGRY OPTIONS COOLING	USS STAR  # ST	VENTILATION: WATER HEATING. EMERGY EFFICENT LIGHTIN COOK TOSE: ODE	Rating & Day/Night Zoning Areas Text goes here S STAR Text goes here Text goes here Text goes here Text goes here Text goes here Text goes here Text goes here	MHNDU  35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 11111 F +61 2 9101 1110 www.mhndu.com MAN Design Urkion Py Ltd. AEN 94 003 717 682 NSW Registration Nurrow 4907	ROOF AND SCREEN DETAILS PROJECT ADDRESS: 108 RAMSGATE AVENUE, NSW BONDI BEACH 2026	1:2, 1:2.79, 1:1.14, 1:5.54 A. 1:1.12.79, 1:1.14. 1:5.54 A. 1:1.07/22 PROJECT NUMBE 21-032		BM REVISION: D DWG NUMBER: DA 6001

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**Waverley Council** 

Receipt No: DA-45/2022

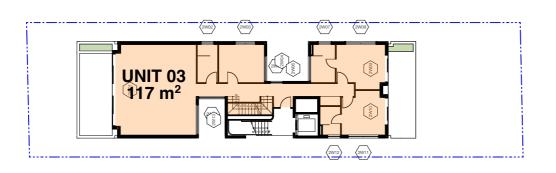
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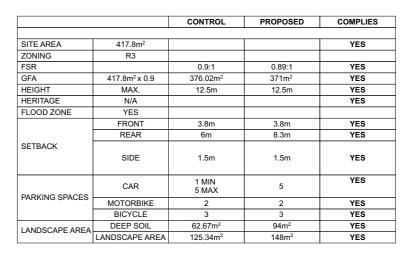
GROUND FLOOR GFA 1:300



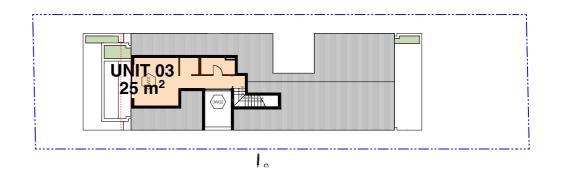
FIRST FLOOR GFA 1:300



SECOND FLOOR GFA 1:300



PROPOSED GFA	
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GROUND	118
LEVEL 1	111
LEVEL 2	117
LEVEL 3	25
TOTAL GFA	371 m <sup>2</sup>



THIRD FLOOR GFA 1:300

REV	DESCRIPTION	D.
A	DEVELOPMENT APPLICATION	18
)	DEVELOPMENT APPLICATION	11



**BEACH 2026** 

DRAWING TITLE: **GFA - DIAGRAMS** 

PROJECT ADDRESS:

108 RAMSGATE AVENUE, NSW BONDI

SCALE: 1:300@A3

ISSUE DATE: 11/07/22 PROJECT NUMBER:

21-032

REVISION: D DWG NUMBER:

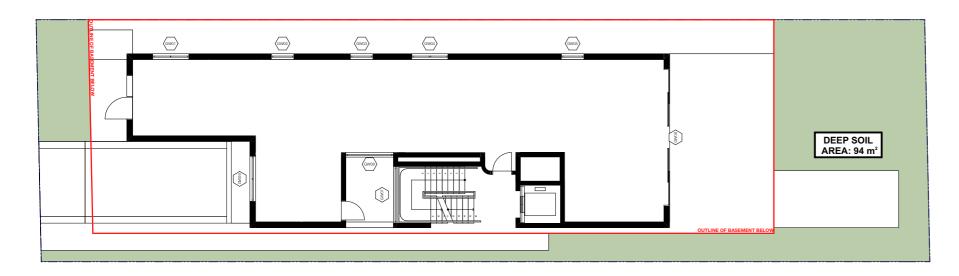
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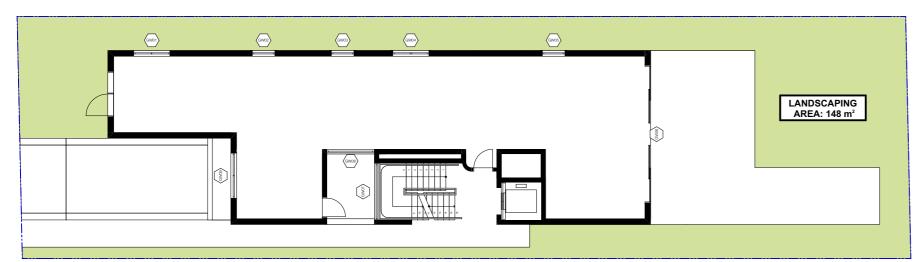
**Waverley Council** 

Receipt No: DA-45/2022

Date Received: 31/08/2022

# LANDSCAPE AND DEEP SOIL CALCULATION





		CONTROL	PROPOSED	COMPLIES
0.75 4.554	447.0.2			
SITE AREA	417.8m <sup>2</sup>			YES
ZONING	R3			
FSR		0.9:1	0.89:1	YES
GFA	417.8m <sup>2</sup> x 0.9	376.02m <sup>2</sup>	371m <sup>2</sup>	YES
HEIGHT	MAX.	12.5m	12.5m	YES
HERITAGE	N/A			YES
FLOOD ZONE	YES			
SETBACK	FRONT	3.8m	3.8m	YES
	REAR	6m	8.3m	YES
	SIDE	1.5m	1.5m	YES
PARKING SPACES	CAR	1 MIN 5 MAX	5	YES
	MOTORBIKE	2	2	YES
	BICYCLE	3	3	YES
LANDSCAPE AREA	DEEP SOIL	62.67m <sup>2</sup>	94m²	YES
LANDSCAPE AREA	LANDSCAPE AREA	125.34m <sup>2</sup>	148m²	YES



35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100

DRAWING TITLE: LANDSCAPE AND DEEP SOIL CALCULATION PROJECT ADDRESS:

108 RAMSGATE AVENUE, NSW BONDI **BEACH 2026** 

SCALE: @A3 ISSUE DATE: 11/07/22

CHECKED: D

REVISION:

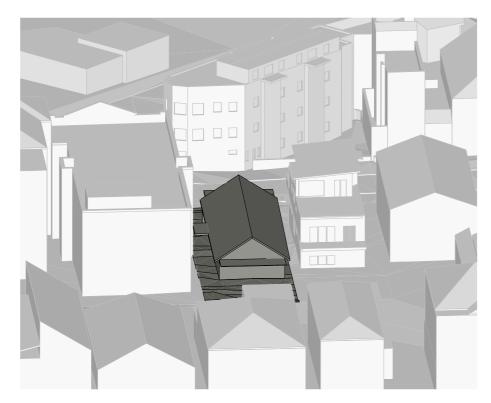
PROJECT NUMBER: DWG NUMBER: 21-032 DA 9101

**Waverley Council** 

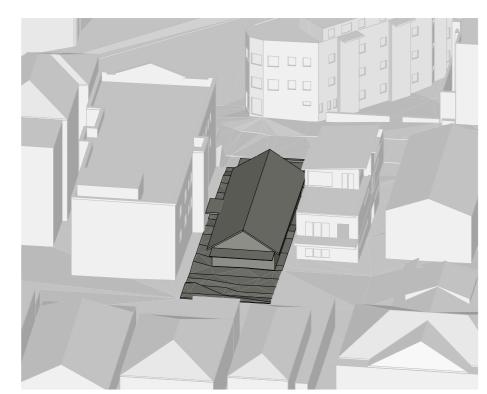
Receipt No: DA-45/2022

### Date Received: 31/08/2022

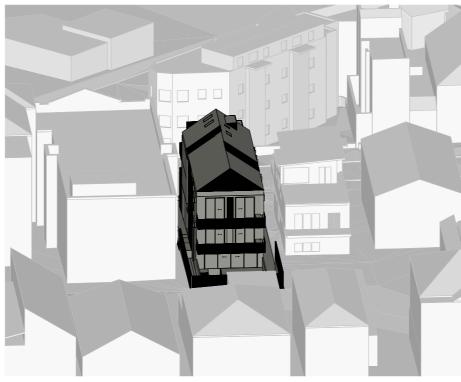
# SOLAR ACCESS 9am & 10am - JUNE 21st



Existing Building - 9am



Existing Building - 10am

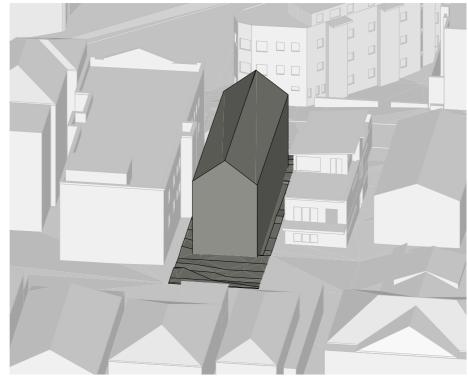


Proposed Building- 9am



Proposed Building- 10am





Compliant Building Envelope- 10am

REV	DESCRIPTION
А	DEVELOPMEN
D	DEVELOPMEN

ARCHITECT: MHNDU 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com

DRAWING TITLE:

SOLAR ACCESS 9am & 10am - JUNE 21st PROJECT ADDRESS:

108 RAMSGATE AVENUE, NSW BONDI **BEACH 2026** 

SCALE: 1:200@A3 ISSUE DATE: 11/07/22

21-032

PROJECT NUMBER:

D DWG NUMBER: DA 9200

CHECKED:

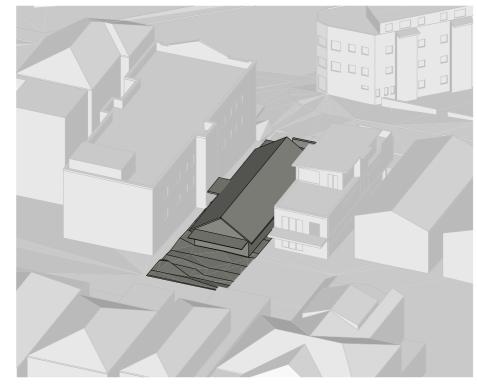
REVISION:

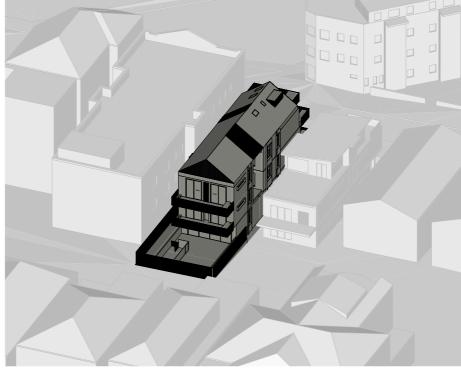
**Waverley Council** 

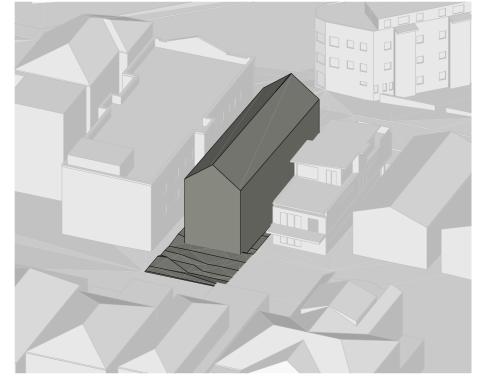
Receipt No: DA-45/2022

Date Received: 31/08/2022

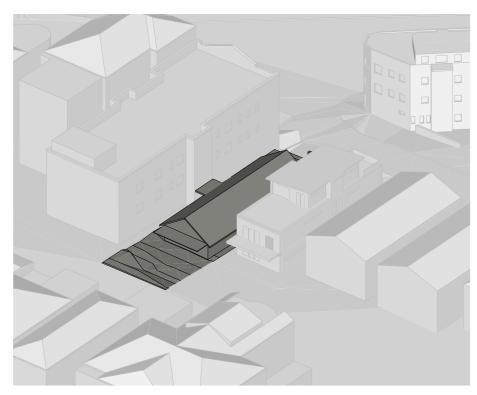
# SOLAR ACCESS 11am & 12pm - JUNE 21st







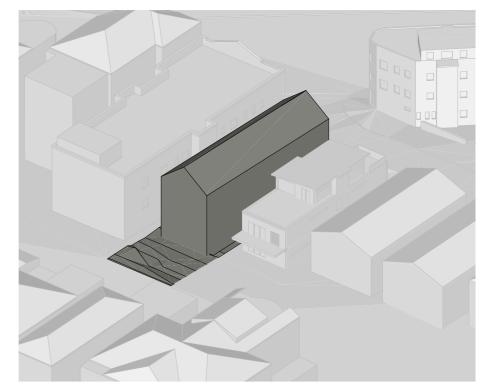
Existing Building - 11am



Proposed Building- 11am



Compliant Building Envelope- 11am



Existing Building - 12pm Proposed Building- 12pm

ARCHITECT:

MHNDU

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Compliant Building Envelope- 12pm

DRAWING TITLE: SOLAR ACCESS 11am & 12pm - JUNE 21st PROJECT ADDRESS:

108 RAMSGATE AVENUE, NSW BONDI **BEACH 2026** 

SCALE: 1:200@A3 ISSUE DATE: 11/07/22

PROJECT NUMBER: DWG NUMBER: 21-032 DA 9201

CHECKED:

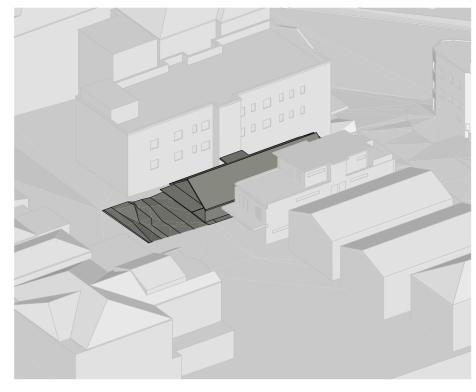
REVISION:

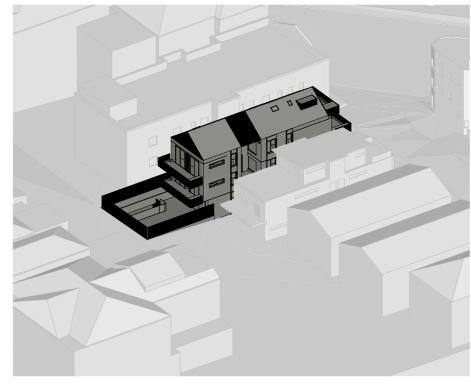
**Waverley Council** 

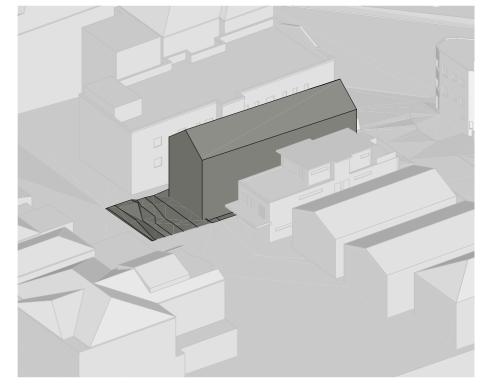
Receipt No: DA-45/2022

Date Received: 31/08/2022

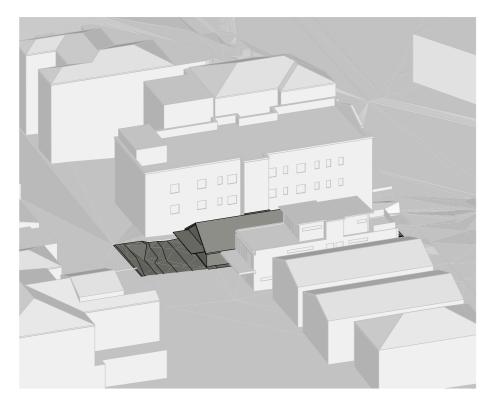
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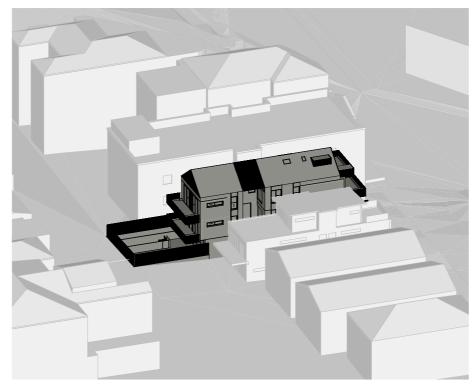




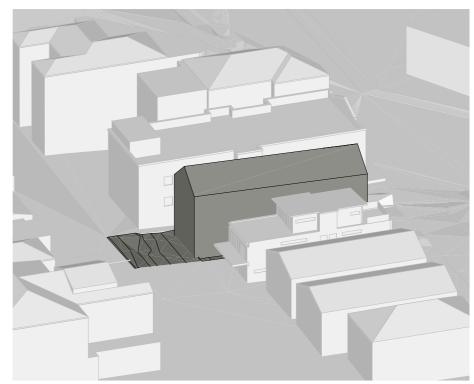
Existing Building - 1pm



Proposed Building- 1pm



Compliant Building Envelope- 1pm



Existing Building - 2pm Proposed Building- 2pm

**BEACH 2026** 

Compliant Building Envelope- 2pm

DRAWING TITLE:

SOLAR ACCESS 1pm & 2pm - JUNE 21st

108 RAMSGATE AVENUE, NSW BONDI

SCALE: 1:200@A3 ISSUE DATE: 11/07/22 PROJECT NUMBER:

21-032

CHECKED: REVISION: DWG NUMBER: DA 9202

Page 398 of 618

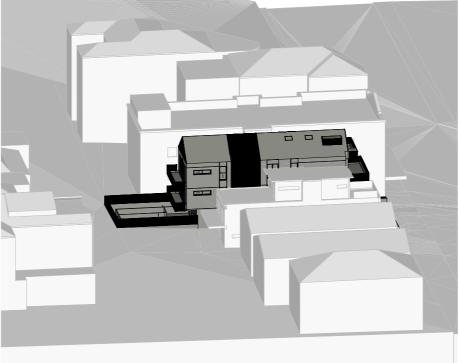
**Waverley Council** 

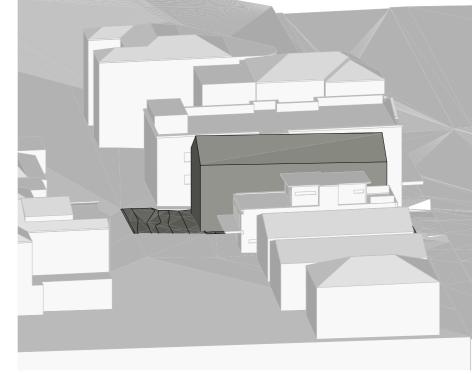
Receipt No: DA-45/2022

Date Received: 31/08/2022

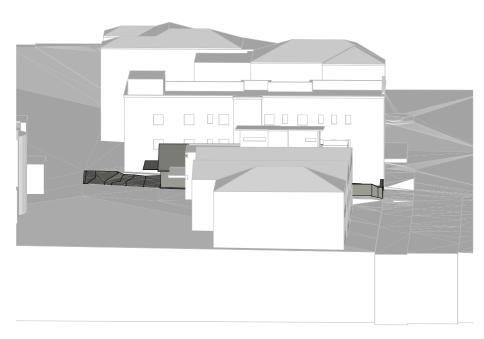
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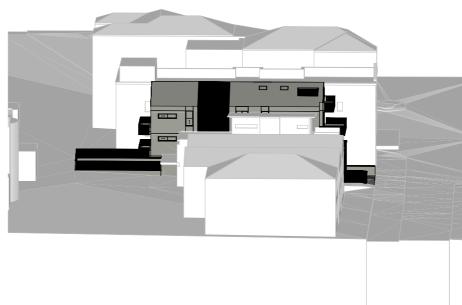






Proposed Building- 3pm





Existing Building - 4pm

Proposed Building- 4pm

Compliant Building Envelope- 4pm

Compliant Building Envelope- 3pm

REV	DESCRIPTION
А	DEVELOPMENT
D	DEVELOPMENT

ARCHITECT:

DRAWING TITLE:

**BEACH 2026** 

SOLAR ACCESS 3pm & 4pm - JUNE 21st

108 RAMSGATE AVENUE, NSW BONDI

ISSUE DATE: 11/07/22

21-032

SCALE:

1:200@A3 PROJECT NUMBER:

D DWG NUMBER: DA 9203

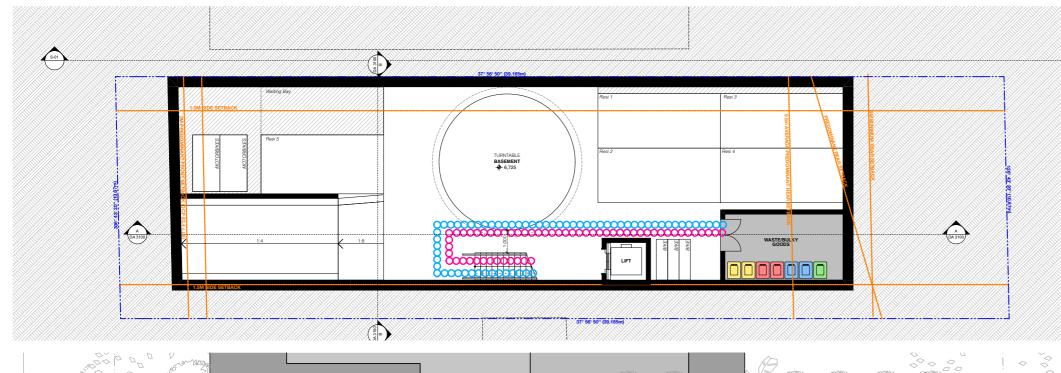
CHECKED:

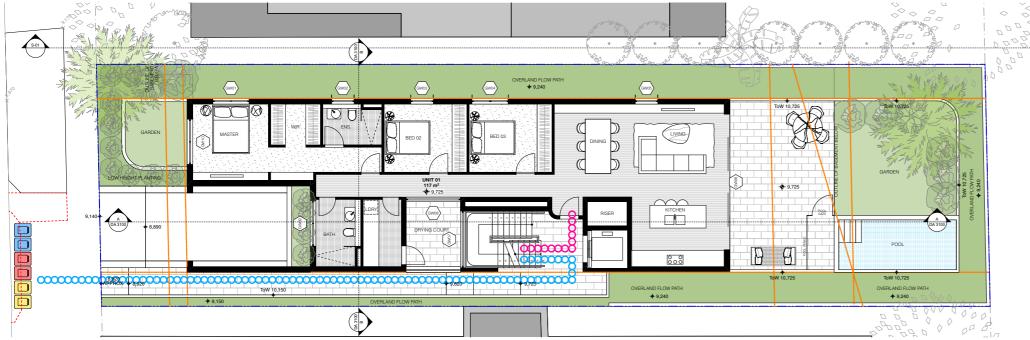
REVISION:

Receipt No: DA-45/2022

Date Received: 31/08/2022

## **WASTE MGT PLAN**





NOTE: GARBAGE HOLDING AREA IS ONLY ACCESSED BY CERTIFIED CONTRACTOR OR BUILDING MANAGER LOCATION OF RESIDENTIAL RECYCLING HOLDING AREA LOCATION OF RESIDENTIAL GREEN WASTE HOLDING AREA PATH OF TRAVEL FOR RESIDENTS TO RECYCLING HOLDING AREA





ARCHITECT: MHNDU 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100

DRAWING TITLE: WASTE MGT PLAN

PROJECT ADDRESS: 108 RAMSGATE AVENUE, NSW BONDI **BEACH 2026** 

SCALE: 1:166.67@A3 ISSUE DATE: 11/07/22

CHECKED:

REVISION: D PROJECT NUMBER: DWG NUMBER: 21-032 DA 9300

# **WINDOW SCHEDULE**

RECEIVED Waverley Council

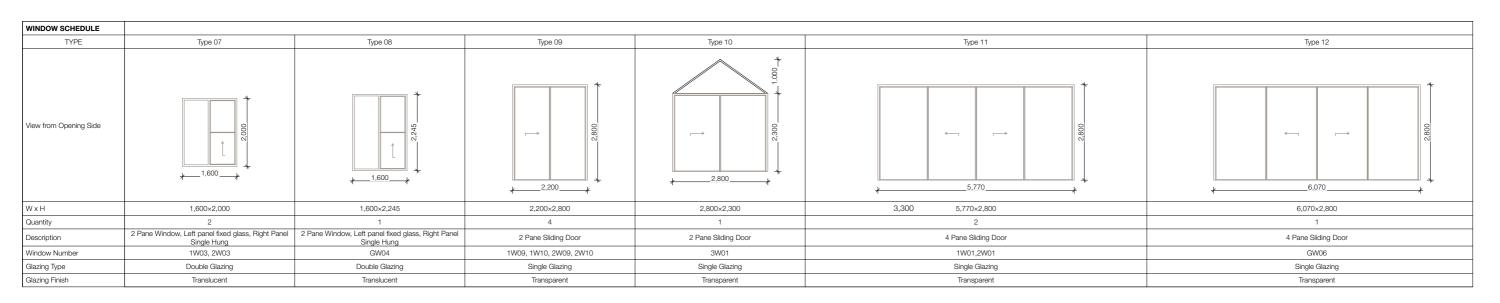
Receipt No: DA-45/2022

Date Received: 31/08/2022





WINDOW SCHEDULE								
TYPE	Type 01	Type 02A	Type 02B	Type 03	Type 05A	Type 05B	Type 06	
View from Opening Side	1,600	* 2,400 *	2,400	2,000 *	*-1.000-*	#_1,000_#	1.000_ <sub>4</sub>	
W x H	1,600×600	2,400×600	2,400×600	2,000×1,200	1,000×2,000	1,000×2,000	1,000×2,245	
Quantity	1	2	2	1	2	4	3	
Description	2 Pane Sliding Window	2 Pane Single Hung WIndow	2 Pane Single Hung WIndow	2 Pane Single Hung WIndow				
Window Number	GW01	1W11, 2W11	1W08, 2W08	GW09	1W12, 2W12	1W02,1W07, 2W02, 2W07	GW02,GW03,GW05	
Glazing Type	Double Glazing	Single Glazing	Double Glazing	Single Glazing	Single Glazing	Double Glazing	Double Glazing	
Glazing Finish	Translucent	Transparent	Translucent	Transparent	Transparent	Translucent	Translucent	

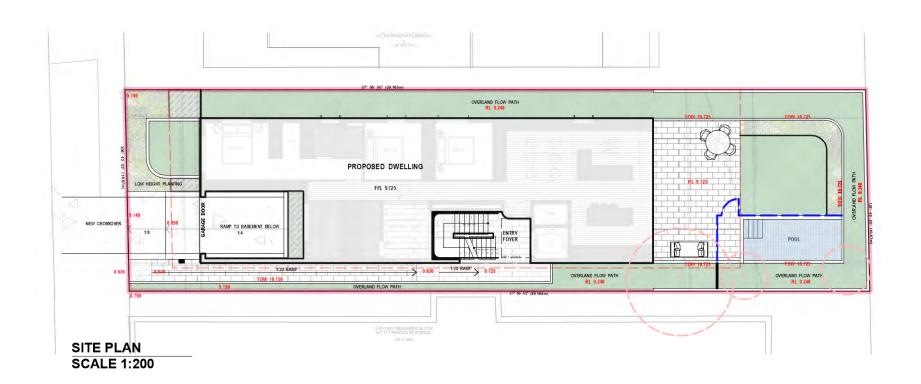


						······································	7)
WINDOW SCHEDULE					>		>
TYPE	Type 13	Type 14	Type 15	Type 16	Type 17	Type 18	Type 19
View from Opening Side	1,000	2,000	2,000	2.000	2,400	2,800	2,500
V x H	1,000×1,000	2,000×450	2,000×1,500	2,000×2,000	2,400×2,800	2,100×2,800	2,500×1,500
Quantity	1	1	2	2	3	4	2
Description	Single Pane Fixed Window	Single Pane Fixed Window					
Vindow Number	2W05	RW01	1W06,2W06	1W04, 2W04	1W05, 1W15, 2W13	GW08, 1W14, 2W14, 3W02	GW07, 1W13
Glazing Type	Single Glazing	Single Glazing					
Glazing Finish	Transparent	Transparent	Transparent	Transparent	Transparent	Transparent	Transparent

RE	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM WI BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSEF4.4 & AS1680 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENT	TS AS PER BASIX	HEATING:	Insert Phase, EER	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	18/01/22	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS  CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTION  CLAUSE D 2.4 ORGENITION CLAUSE D 2.4	DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH ASINZS 3500 3.2 ENERGY EFICIENCYGLAZING: TO COMPLY WITH JZ OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA	CERTIFICATE AND STAMPED PLAN WATER OPTIONS	NS) # STAR	VENTILATION:	Rating & Day/Night Zoning Areas Text goes here	MUNDIN	WINDOW SCHEDULE	@A3		ВМ
В	DEVELOPMENT APPLICATION	31/01/22	SPEC. C1.10 FIRE HAZARD PROPERTIES  SPEC. C1.10 FIRE HAZARD PROPERTIES  SPEC. C.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE  CLAUSE D2.23 SIGNS ON DOORS  CLAUSE D3.2 GENERAL BUILDING ACCESS REQUIREMENTS  CLAUSE D3.2 GENERAL BUILDING ACCESS REQUIREMENTS	HOT WATER: SYSTEMS TO COMPLY WITH PART J7 OF BCA MASONRY: TO COMPLY WITH ASS700 MECHIEL ECHYDRAULIC: BCA CLAUSE C3 15 & ASS510 4-2005	WATER OPTIONS SHOWERHEADS: TOILETS: CLOTHES WASHERS:	# STAR # STAR # STAR	WATER HEATING: ENERGY EFFICIENT LIGHTING: COOK TOPS:	# STAR # STAR Text goes here		V I	ISSUE DATE:		REVISION:
С	DEVELOPMENT APPLICATION	04/04/22	CLAUSE C2.12 SPEARATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSYEM CLAUSE C2.13 ELECTRICITY SUPPLY SYSYEM CLAUSE C3.0 ACCEPTABLE HETHORO OF PROTECTION (OF OPENINGS) CLAUSE C3.8 TACTILE INDICATORS CLAUSE D3.8 TACTILE INDICATORS	MECHANICAL AIRCONDITIONING: TO COMPLY WITH PART J5 OF BCA MECHANICAL EXHANUST VENTILATION: TO COMPLY WITH AS1668 & ASSR 2	KITCHEN TAPS: BATHROOM TAPS: DISHWASHERS	# STAR # STAR	REFRIGATOR SPACE: CLOTHES DRYING LINES: ALTERNATIVE SUPPLY:	Text goes here Text goes here Text goes here	35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010	PROJECT ADDRESS:	11/07/22		D
D	DEVELOPMENT APPLICATION	11/07/22	CLAUSE C3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C3.15 OPENING FOR SERVICE INSTALLATIONS CLAUSE C3.15 OPENING FOR SERVICE INSTALLATIONS CLAUSE C3.5 CONSTRUCTION OF SANITARY COMPARTMENTS CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS	SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS3786 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH	RAIN WATER TANK: STORM WATER TANK: POOL/SPA:	# L # L	POOLISPA: THERMAL COMFORT OPTIONS	stat sqm	T +61 2 9101 1111	108 RAMSGATE AVENUE, NSW BONDI	PROJECT NUM	BER:	DWG NUMBER:
			CAUSE DZ? INSTALLATION NEXITS AND PATHS OF TRAVEL CLAUSE DZ? SOUND SIXUATION OF FLOORS CLAUSE DZ? SOUND SIXUATION OF FLOORS CLAUSE DZ? LANDINGS CLAUSE DZ? SOUND SIXUATION OF FLOORS CLAUSE DZ? SOUND SIXUATION OF FLOORS CLAUSE DZ? SOUND SIXUATION OF WALLS	ELECHYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE C3.15 & AS1530 4-2005 SOLIND TRANSMISSION- TO COMPLY WITH PARTS OF BCA	COLLECT RUN OFF AREA: LANDSCAPED AREA TO IRRIGATE	### sqm	R3.0 INSULATION TO: R2.5 INSULATION TO: R2.0 INSULATION TO:	Text goes here Text goes here Text goes here	F +61 2 9101 1100 www.mhndu.com Nominated	BEACH 2026	21-032		DA 9301
			CLAUSE D2.16 THRESHOLDS  CLAUSE D2.15 THRESHOLDS  CLAUSE D2.15 THRESHOLDS  CLAUSE D2.16 BALUSTRADES  CLAUSE D2.16 BALUSTRADES		ENERGY OPTIONS COOLING:	Insert Phase, EER Ratin	GLAZING SPEC: GLAZING TYPE:	Uw = ## SHGC = ## Text goes here	MHN Design Union Pty Ltd. ABN 94 003 717 682 NSW Registration Num	1907	21-032		DA 3301

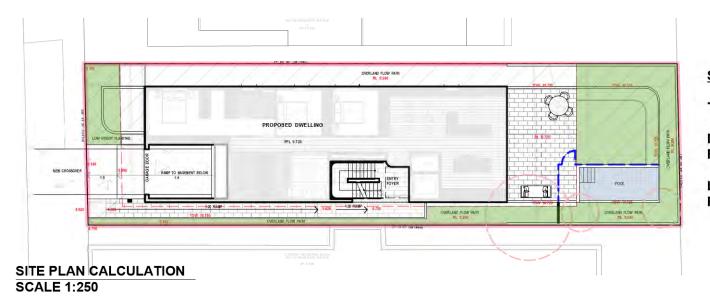
# DA LANDSCAPE Plate R Aled 03(12/2022)

108 RAMSGATE AVENUE, BONDI BEACH NSW





**PROJECT LOCATION** 



SITE CALCULATION

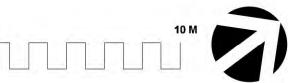
**RECEIVED Waverley Council** 

> : 417.8 SQM **TOTAL SITE AREA**

DEEP SOIL AREA : 94 SQM / 22.49% **REQUIRED DEEP SOIL AREA** : 15% / 62.67 SQM

LANDSCAPE AREA **REQUIRED LANDSCAPE AREA** 

: 148 SQM / 35.42% : 30% / 125.34 SQM



С	17/01/2022	<b>ADDED</b>	<b>PLANTER</b>
ISSUE	DATE	COMME	NT

**AMENDMENTS** 

Page L-01

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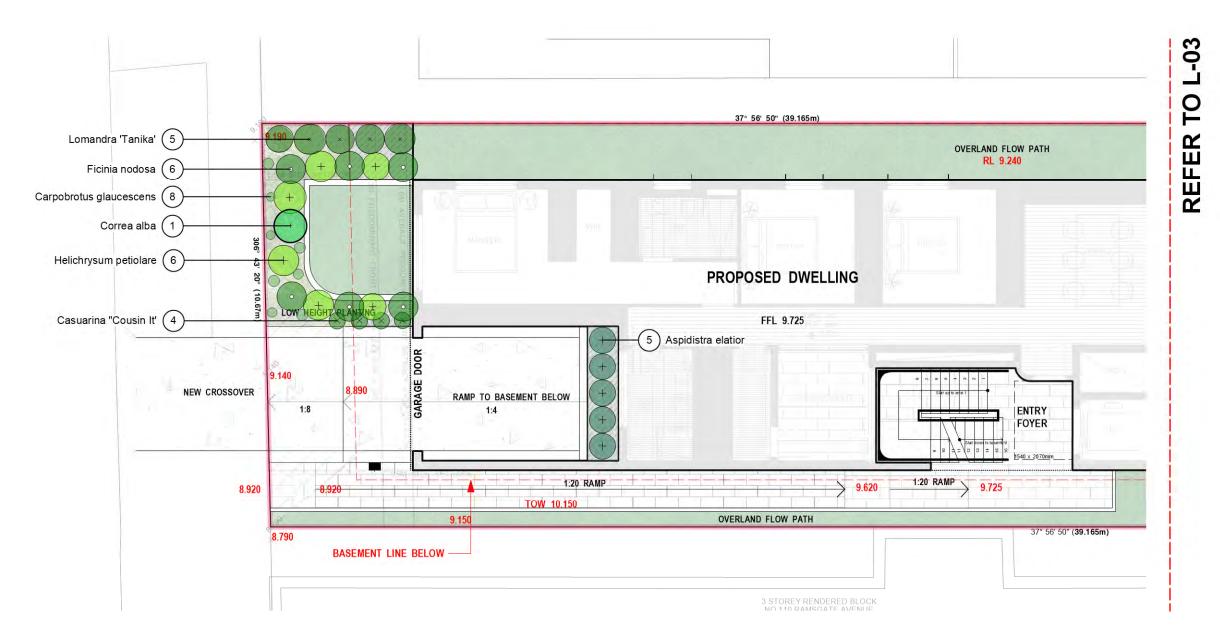
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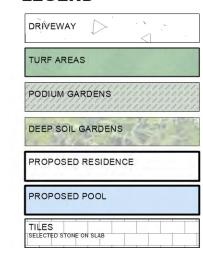
PROPOSED LANDSCAPE PLAN 108 Ramsgate Avenue, Bondi Beach NSW Address Date 17/01/22 Drawing Title SITE PLANS

RECEIVED
Waverley Council
Application No: DA-45/2022

Date Received: 03/02/2022



## LEGEND



# FRONT LANDSCAPE PLAN SCALE 1:100



SYDNEY CITY STUDIO PO BOX 576 DOUBLE BAY 1360 p 1300 22 44 55 info@sdstudios.com.au www.sdstudios.com.au Project PROPOSED LANDSCAPE PLAN

Address 108 Ramsgate Avenue, Bondi Beach NSW Date 17/01/22

Drawing Title FRONT DETAILED PLAN Scale 1:100@A3

Drawing No. 7095

Page L-02

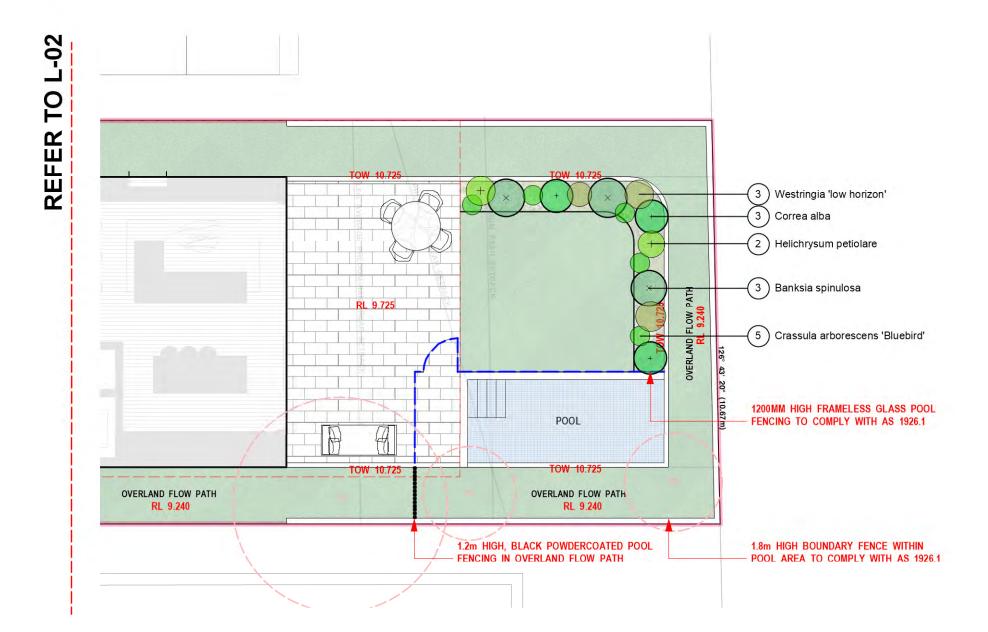
17/01/2022 ADDED PLANTER

ISSUE DATE COMMENT

**AMENDMENTS** 

RECEIVED
Waverley Council
Application No: DA-45/2022

Date Received: 03/02/2022



## REAR LANDSCAPE PLAN SCALE 1:100

10 M

TIES care of out in accordance with the Building, Code of Australia, all Local and Strate Government Circlininfoces, relevant Australian Standards, Local Authorities Regulations and . 38 Chile Care of the Conference of the Confe

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Project PROPOSED LANDSCAPE PLAN

Address 108 Ramsgate Avenue, Bondi Beach NSW Date 17/01/22

Drawing Title REAR DETAILED PLAN Scale 1:100@A3

Drawing No. 7095

17/01/2022 ADDED PLANTER

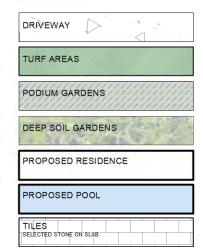
Page

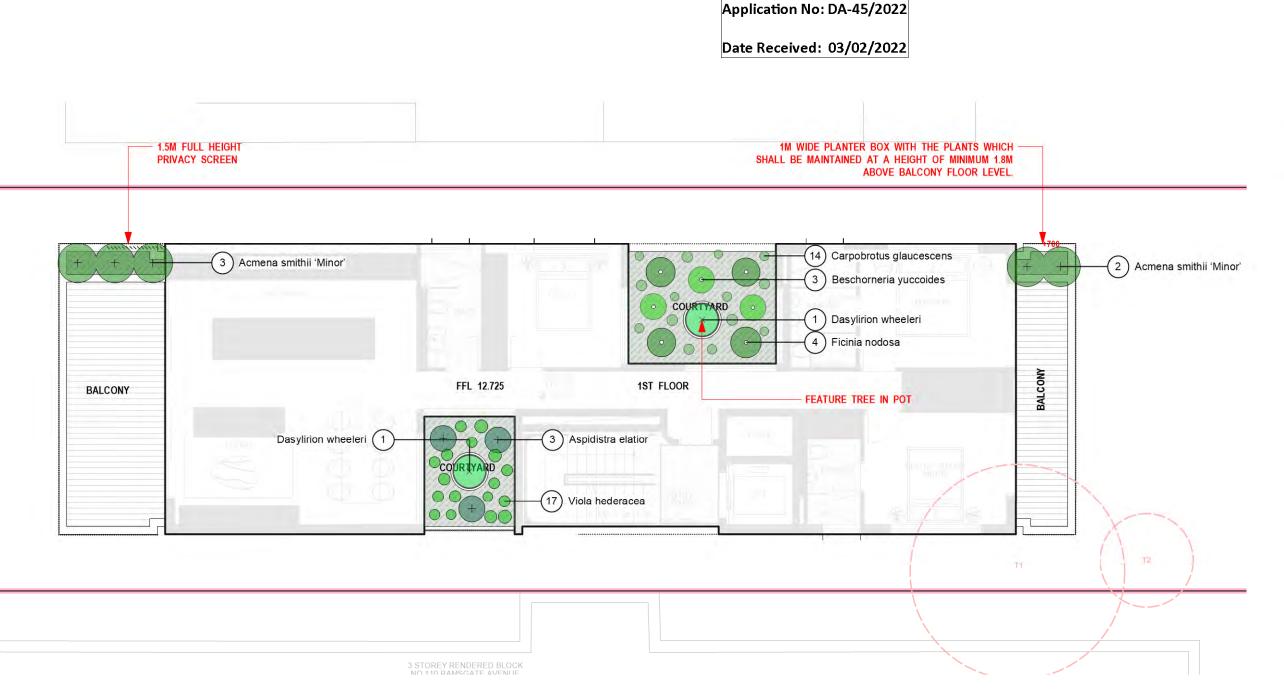
L-03

ISSUE DATE COMMENT

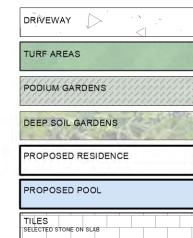
**AMENDMENTS** 

## **LEGEND**





**RECEIVED Waverley Council** 



**LEGEND** 

**1ST FLOOR PLAN SCALE 1:100** 

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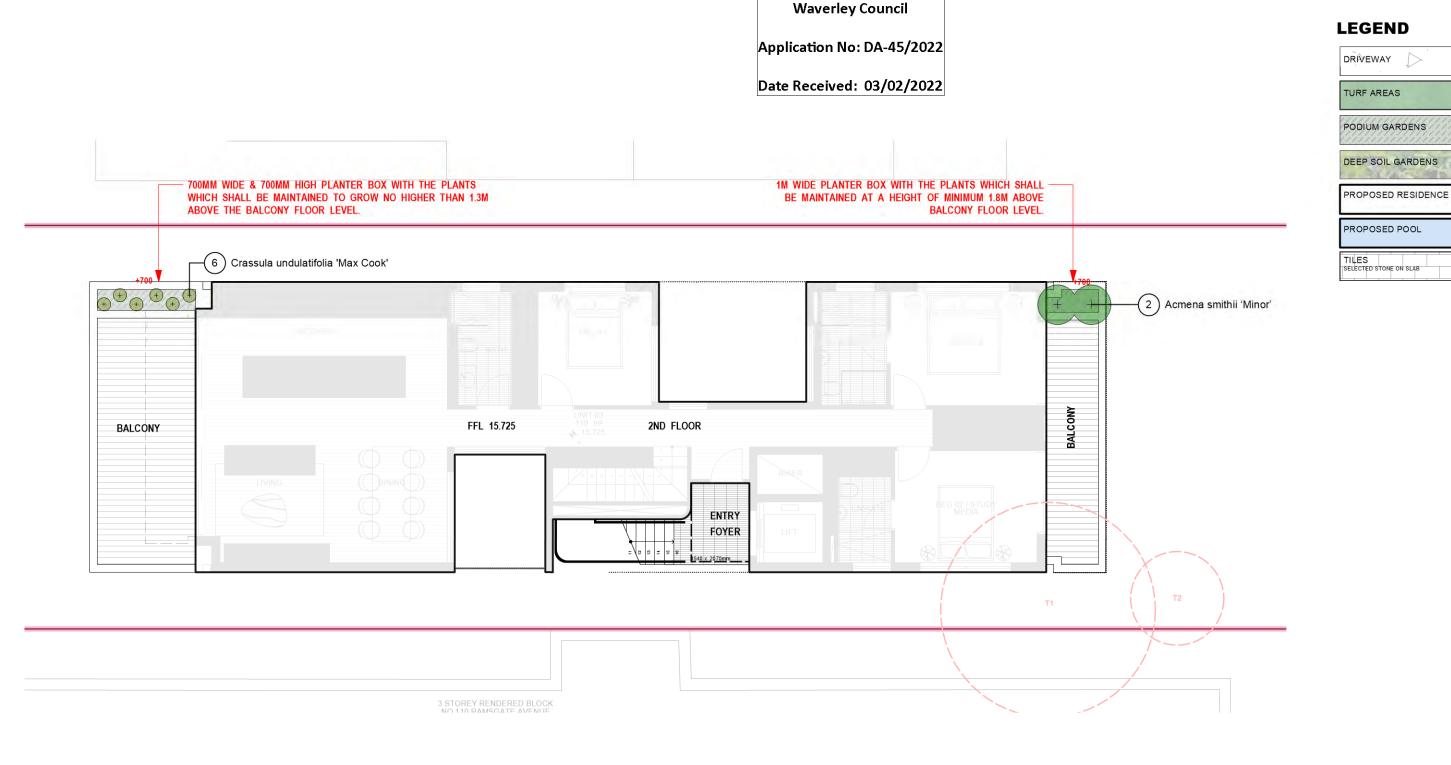
PROPOSED LANDSCAPE PLAN Project Address 108 Ramsgate Avenue, Bondi Beach NSW Date 17/01/22 1ST FLOOR Drawing Title Scale 1:100@A3 Drawing No. 7095

Page L-04

17/01/2022 ADDED PLANTER

ISSUE DATE COMMENT

**AMENDMENTS** 



**RECEIVED** 

2ND FLOOR PLAN SCALE 1:100

10 M

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Project PROPOSED LANDSCAPE PLAN

Address 108 Ramsgate Avenue, Bondi Beach NSW Date 17/01/22

Drawing Title 2ND FLOOR Scale 1:100@A3

Drawing No. 7095

Page L-05

17/01/2022 ADDED PLANTER

ISSUE DATE COMMENT

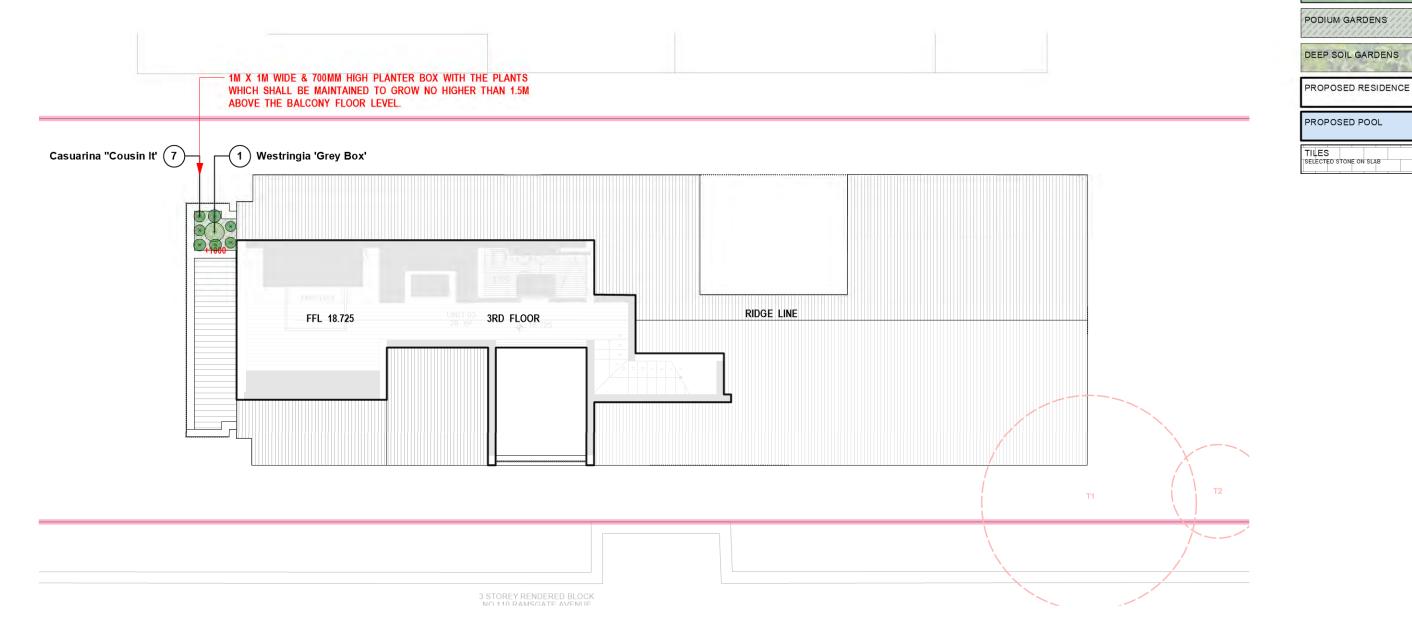
**AMENDMENTS** 

Page 406 of 618

RECEIVED
Waverley Council

Application No: DA-45/2022

Date Received: 03/02/2022



3RD FLOOR PLAN SCALE 1:100

10 M

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info@sdstudios.com.au
www.sdstudios.com.au

 Project
 PROPOSED LANDSCAPE PLAN

 Address
 108 Ramsgate Avenue, Bondi Beach NSW
 Date 17/01/22

 Drawing Title
 3RD FLOOR
 Scale 1:100@A3

 Drawing No.
 7095

Page L-06

17/01/2022 ADDED PLANTER

ISSUE DATE COMMENT

**AMENDMENTS** 

**LEGEND** 

DRIVEWAY

TURF AREAS

NERAL NOTES

I work to be carried out in accordance with the Building Code of Australia, all Local and State Government Chrimances, relevant Australian Standards, Local Authorities Regulations and all other sevenant Authorities concerned.

All studued not and site dramage to be subject to Engineer's petals or confidency mere required by Council This shall include r.c. stats and footings, r.c. and seed beams & columns, when the AS 11700 and AS4055, anchor looks to look, its downs, fungaleth, or willow part and an expension of the Council or suitableton. All formers to be in approximate with SAA Timber Brussure Dodg AS1700 and SAA. Timber Brussure Dodg AS1700 and SAA. Timber Brussure Dodg AS1700 and SAA. Timber Brussure SAA Timber Brussure Dodg AS1700 and SAA.

NOTE. Do not scale off the drawings unless otherwise stated and use figured dimensions in preference.

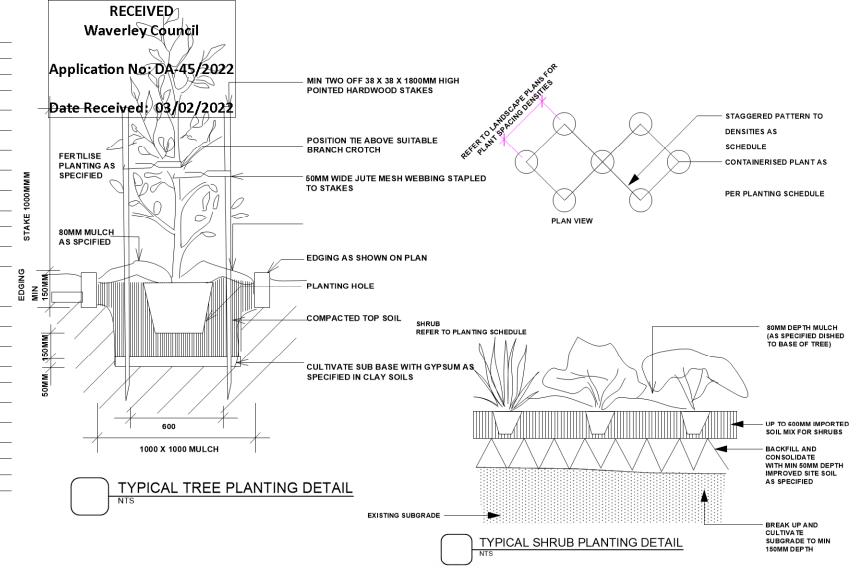
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#### PLANTING SCHEDULE **Botanical Name Common Name** Scheduled Size Qty **Trees Shrubs** Acm-smi Acmena smithii 'Minor' Lillypilly 200mm 7 Ban-spi Banksia spinulosa Hairpin Banksia 200mm 3 Cor-alb Correa alba White Correa 200mm 4 2 das-wh Dasylirion wheeleri Desert Spoon 200mm Hel-pet Helichrysum petiolare liquorice plant 150mm 8 wes-gb Westringia 'Grey Box' Grey Box' Westringia 200mm 1 **Ground Covers** Asp-ela Aspidistra elatior Cast Iron Plant 150mm 8 Car-gla Carpobrotus glaucescens Coastal Moonflower, Pigface, I 150mm 22 11 cas'ci' Casuarina "Cousin It" Casuarina "Cousin It' 150mm Cra-arb Crassula arborescens 'Bluebird' 'Blue Bird' 150mm 5 Cra und 'Mc" Crassula undulatifolia 'Max Cook' Crassula undulatifolia 'Max Co 140 mm 6 17 vio-he Native Violet 150mm Viola hederacea wes-lh' Westringia 'low horizon' coastal rosmary 200mm 3 Grasses 3 Beschorneria yuccoides Mexican Lily 150mm bes-yu 200mm fac-nod Ficinia nodosa knobby club-rush 10 150mm 5 lom-ta Lomandra 'Tanika' Fine-leaved mat rush Climbers **Aquatic Plants**





INCL. NOTES.

IN to be scarmed on out in accrostance with the Building Code of Australia, all Local and State Government Ordinances, relevant Australian Standards, Local Australias, and all contexts. Regulations and all contexts.

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Project PROPOSED LANDSCAPE PLAN

Address 108 Ramsgate Avenue, Bondi Beach NSW Date 17/01/22

Drawing Title PLANTING DETAILS Scale NTS

Drawing No. 7095

Page L-07

17/01/2022 ADDED PLANTER

COMMENT

ISSUE DATE

**RECEIVED Waverley Council** 

Application No: DA-45/2022

Date Received: 03/02/2022

#### POOL COMPLIANCE NOTES

The design of the swimming pool and associated equipment must comply with the following requirements:

i) The Swimming Pools Act & Regulations.

ii) Australian Standard 1926 Swimming Pool Safety as prescribed under the

Building Code of Australia.

iii) The pump and associated equipment must be sound insulated and/or isolated so

that the noise emitted does not exceed an LAeq (15min) of not more than 5 dB(A) above the background level in any octave band from 31 5Hz to 8KHz centre frequencies inclusive at the boundary of the site

The swimming pool excavation and/or swimming pool must be provided with a suitable barrier to prevent a risk of falling into the excavation or pool at all times throughout the construction phase.

-The measurement of sound must be carried out in accordance with Australian

Standard 1055.1.

-Additional information is available from Sutherland Shire Swimming Pool

Environmental Specification.

-Landscaping and ancillary structures must not intrude into the child-resistant

barrier Non-Climbable Zone.

-Only structures associated with the pool may be located within the pool area.

-Clothes lines, barbeque, sheds, entertainment structure, outside toilets or any other non pool-related structures are not permitted within the pool area.

Before the issue of any Occupation Certificate;

i) The child resistant barrier must be installed in accordance with A above.

ii) The swimming pool is to be registered in the NSW Swimming Pool Register.

The pump and associated equipment must be maintained and operated in accordance with the noise levels described above.

ii) The child resistant barrier must be maintained in accordance with the Australian Standard as described above.

#### **PLAN NOTES**

This plan should be read in conjunction with the architectural and hydraulics plans. Work specific to these plans should be prepared in accordance to these plans, including

specification and details prior to the installation of landscaping, and should not be altered or compromised during landscape construction

Retaining wall details to engineers design

Elements such as drainage swales may be incorporated in garden bed areas (using non-floatable mulch) without compromising the capacity or form

The Design & location of new letter boxes shall be in accordance with Australia Post's "Requirements for Delivery of Mail to Residential Premises" published Feb '97. All noxious weed listed in Councils weed lists & located on the site shall be continually removed & suppressed. Reinstate all boundary fencing in poor condition with Council approved 1.8m fencing to rear of building line, rake to 1m forward of BL. Pollution, sediment & erosion control devices as specified shall be in place, and maintained for the duration of the construction period. Proposed excavation near existing established trees to be supervised by arborist

This plan has been prepared for DA approval only, not for construction.

D.A approved landscape plan's are required to be constructed as approved to obtain occupancy certificate



#### LANDSCAPE MAINTENANCE NOTES

HTMOM	MOWING EDGING BLOWING	(SEASOL)	CHECK IRR GATION	HAND WEED HEMOVAL	PRUNING	WEED SPARAYING	WATERING/ IRRIGATION	PLANT REPLACEMENT IF REQUIRED
DEC	W	М	M	W	F	M	D	W
JAN	W	M	М	W	F	М	D	W
FEB	W	М	M	W	F	М	D	W
FAM	F	M	М	F	М	М	D	W
AFH	F	N/A	М	F	М	М	D	w
MAY	F	N/A	М	M	М	M	D	W
JUNE	M	N/A	М	M	N/A	N/A	2ND D	W
JULY	М	N/A	М	M	N/A	N/A	2ND D	W
ΛUG	М	N/A	М	M	N/A	N/A	2ND D	W
SEP	M	М	М	M	N/A	N/A	2ND D	W
OCT	F	F	М	F	М	М	D	W
VOV	F	F	М	F	М	М	D	W

## **EXTERNAL LIGHTING - (AMENITY)**

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

#### Design

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

#### Ongoing

All lighting must be operated and maintained in accordance with the Standard above.

# MAINTENANCE GENERAL

## SECTION C: LANDSCAPE MAINTENANCE SPECIFICATION 1.0 SCOPE 1.1 PERIOD

The 52 week Planting Establishment Period commences at the date of registration of the

The contractor is to also allow for maintenance from the date of Practical Completion to the start date of the 52 week Planting Establishment Period. The allowance shall be for a weekly rate which will then be implemented until the formal maintenance period commences.

#### 12 PROGRAM

Furnish a proposed planting maint 1.3 MAINTENANCE LOGBOOK intenance program with the tende

Contractor to keep a maintenance record of works carried out on a monthly basis. Log should include but not limited to: - Activities carried out during each attendance;

Irregularities encountered and actions taken;
 NB: Maintenance payments will be evaluated on submission of monthly logbooks.
 1.4 RECURRENT WORKS

Throughout the Planting Establishment Period, continue to carry out recurrent works of a maintenance nature including, but not limited to, watering, mowing, weeding, rubbish removal, fertilising, pest and disease control, staking and tying, replanting, cultivating, pruning and keeping the site neat and tidy. All rubbish related to landscape works shall be removed by the landscape contractor before it is allowed to accumulate.

#### 1.5 PLANTING

Commence recurrent planting maintenance works at the completion of planting. Ensure the stock arriving on site is protected and maintained for healthy growth.

#### 1.6 REPLACEMENTS

Continue to replace failed, damaged or stolen plants for the extent of the Planting

#### Establishment Period 1.7 MULCHED SURFACES

Maintain the surface in a clean and tidy condition and reinstate the mulch as necessary 1 8 GRASSED AREAS

Commence grass maintenance works at the completion of turfing, and continue to carry out grass maintenance throughout the contract and Planting Establishment Period, maintaining

## healthy weed free growth 1.9 STAKES AND TIES

Adjust or replace as required. Remove those not required at the end of the Planting Establishment Period.

#### 1.10 WATERING/ IRRIGATION

An irrigation system is to be installed to all mass planted beds and new tree planting, connected to a pump and the rainwater tank /OSD tank. Install one tap near the front boundary (Wurrook Circuit) and one tap on the rear (eastern) boundary. This system shall be installed and maintained for the duration of the maintenance period (52 weeks) and in perpetuity of the development. All irrigation works shall be performed by a licensed irrigation contractor. Materials to be used are to be submitted to the site superintendent for approval The contractor shall provide design drawings and material specifications/samples prior to commencing work. All works are to be conducted to all current and relevant Australian

The contractor is to be completely responsible for the coordination of the installation of the irrigation system with other services throughout the site. Recommended flow rates: The system shall be set up on a trial basis and them adjusted to suit the local requirements and conditions. Once the system is satisfactorily adjusted the contractor shall make fortnightly visits within the establishment period to ensure satisfactory performance of the system and to adjust the watering periods as required. A minimum even coverage of 25mm of water per week is recommended.
2.0 REPORTS

2.1 LANDSCAPE MAINTENANCE REPORT

'Landscape Maintenance Reports' shall be submitted to the Principle Certifying Authority by the contractor verifying that satisfactory maintenance of the landscape works has been undertaken and that any necessary rectification measures have been carried out to a high professional standard. This documentation is to be submitted through the plant establishments.

#### 17/01/2022 ADDED PLANTER

ISSUE DATE COMMENT

AMENDMENTS

Page

Planting proposed using commercially available plant species selected from local planting lists and the BASIX local plant list

nut in accontance with the Publing Cope of Australia, all Local and State Government Companies, relevant Australian Standards, Local Authorities Regulations and all chief

Notices residently in Inferior construction. Locate and protect all services prior by temperatures of the Control of the Contr



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		THILLIAND	
Project	PROPOSED LANDSCAPE PLAN	-17403377	
Address	108 Ramsgate Avenue, Bondi Beach NSW	Date	17/01/22
Drawing Title	NOTES	Scale	NTS
		Drawing No.	7095





## Report to the Waverley Local Planning Panel

Application number	DA-15/2022/1
Site address	Unit 2, 21 William Street, Rose Bay
Description of Development	Review of refusal of alterations and additions to Unit 2 within the existing multi-dwelling housing development.
Date of Original Determination	25 May 2022
Date of lodgement	22 July 2022
Owner	Mr D A Harvey
Applicant	Mr D A Harvey
Submissions	One submission
Cost of works	\$85,250
Principal Issues	<ul><li>Building Height</li><li>FSR</li></ul>
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.

## **SITE MAP**



#### 1. PREAMBLE

#### 1.1. Executive Summary

The section 8.2 review application seeks to review the determination of DA-15/2022 for alterations and additions to Unit 2 within the existing multi-dwelling housing development including a new second floor level at the site known as 21 William Street, Rose Bay. The review application has amended the original development application to address the principal reasons for refusal, which were as follows:

- Variation to the height of buildings and floor space ratio development standards results in excessive building bulk and scale and has adverse impacts on the amenity of adjoining properties.
- The proposed bulk and scale are not suitable for the existing development on the site and is inconsistent with the character of surrounding developments.
- The Clause 4.6 written justifications for variations to the height of buildings and floor space ratio development standards have not adequately demonstrated that the proposal, notwithstanding the non-compliances, satisfies the objectives of the development standards, particularly the preservation of environmental amenity of neighbouring properties.
- The Clause 4.6 written justifications have not adequately demonstrated that the proposed noncompliance with the development standards is unreasonable or unnecessary and that there are sufficient environmental grounds for the variations sought.

The assessment finds these issues have been addressed in this review application, as the proposed new second level to the dwelling has been reduced in area and height, will be contained within an attic roof form and does not result in any additional overshadowing or privacy impacts on adjoining properties.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

The application has been assessed against the relevant matters for consideration under sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. It is recommended to change the determination of refusal to approval, subject to conditions of consent.

#### 1.2. Site and Surrounding Locality

A site visit was carried out during the assessment of the original development application.

The site is identified as Lot 2 in SP 22631, known as Unit 2, 21 William Street, Rose Bay.

The site is rectangular in shape with a northern frontage to William Street, measuring 12m and a depth of 53m along the eastern and western side boundaries. It has an area of 648.6m<sup>2</sup> and is generally flat.

The site is occupied by a multi-dwelling housing development comprising six x two storey dwellings with a basement carpark accessed via a driveway along the eastern side boundary. Unit 2 is the second dwelling from the street and is accessed from the pedestrian pathway along the western side boundary.

The site is adjoined by a three storey residential flat building (RFB) with ground level garages to the west, single storey semi-detached dwellings to the east and a single storey detached dwelling to the south fronting Owen Street.

The locality is characterised by predominantly medium density residential development on the northern and southern side of William Street, single and two storey detached and semi-detached dwellings to the south along Owen Street and various commercial developments further to the east on Old South Head Road

Figures 1 to 6 are photos of the site and its context.



**Figure 1:** View of site, looking south-east from William Street



**Figure 3:** View of site and adjoining properties, looking south-west from William Street



**Figure 2:** View of site and adjoining RFB, looking south-east from William Street



**Figure 4:** Existing RFB and multi dwelling housing developments opposite site, looking north on William Street



**Figure 5:** Entry, windows and balconies on the southern elevation of No. 19 William Street



**Figure 6:** View of entry to Unit 2 from the western side passageway looking north towards William Street

#### 1.3. Details of the Original Determination Subject to Review

The original development application, known as DA-15/2022 for alterations and additions to unit within existing multi- dwelling housing development including the construction of a new second floor level, was refused on 25 May 2022 by the Waverley Local Planning Panel.

The principal reasons why the original development application was refused were as follows:

- The proposed variation to the maximum height of building and floor space ratio development standards does not satisfy the objectives of the development standards to preserve environmental amenity of neighbouring properties as the proposal results in additional overshadowing of habitable room windows and private open space which do not currently receive a minimum of 3 hours of direct sunlight between 9am and 3pm on 21 June.
- The additional storey is excessive in bulk and scale, is not suitable for the site having regard to the built form of the existing development and its relationship with adjoining properties.
- The Clause 4.6 written justifications have failed to demonstrate that compliance with the development standards is unreasonable or unnecessary, and that there are sufficient environmental grounds for the variations.

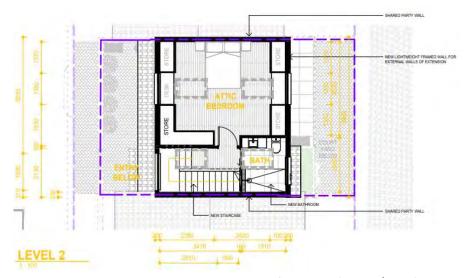


Figure 7: Originally proposed second storey floor plan (DA-15/2022)

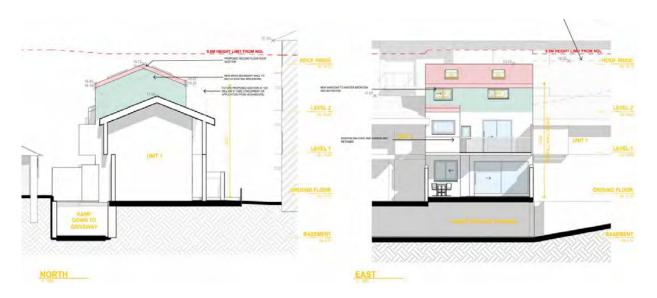


Figure 8: Originally proposed north and east elevations (DA-15/2022)

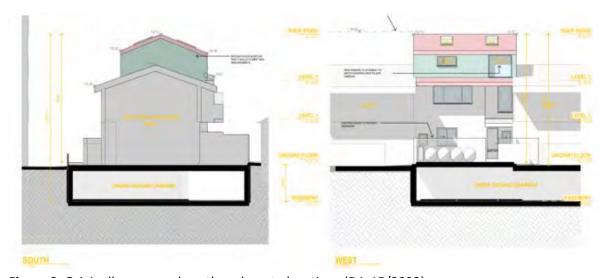


Figure 9: Originally proposed south and west elevations (DA-15/2022)

#### 1.4. Proposal

The review application was lodged on 22 July 2022 and seeks to review the determination of the original development application.

The original application sought development consent for alterations and additions to unit within existing multi- dwelling housing development including the construction of a new second floor level, specifically the following:

#### Ground floor

- Demolition of internal kitchen partition; and
- New beam above existing kitchen bench.

#### Level 1

• Alterations to existing bathroom for construction of new stairs.

#### New Level 2

New bedroom and bathroom.

#### Roof

Four x new skylights.

The review application has made design amendments to the original application, which are summarised as follows:

#### Level 1

New drop down ladder to attic level.

## Level 2

- Extension of existing roof space for an attic level with a gross floor area of 11.83m<sup>2</sup>;
- Relocation of air conditioning unit into the roof space; and
- 2 skylights.

#### 2. ASSESSMENT

The following matters are to be considered in the assessment of this review application under relevant sections of the *Environmental Planning and Assessment Act 1979* (the Act).

#### 2.1. Section 8.3 Considerations

Section 8.3 of the Act enables the consent authority (i.e. Council) to review a previous determination of a development application subject to provisions, such as:

- (2) A determination or decision cannot be reviewed under this Division—
  - (a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or
  - (b) after the Court has disposed of an appeal against the determination or decision.
- (3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

The determination of the original application (DA-15/2022) was made on 25 May 2022. The period of right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is 6 months after the date of determination. The application is scheduled to be determined by the Waverley Local Planning Panel on 26 October 2022, which satisfies the statutory timeframe to determine this review application.

Council is satisfied that the essential elements of the original application are substantially the same as those of the amended development that is the subject of the review application. The overall scope seeking alterations and additions to the dwelling including an additional level between the two applications remain unchanged.

The review application is assessed against the relevant matters for consideration under section 4.15(1) of the Act, as discussed in the succeeding sections of this report.

#### 2.2. Planning Instruments and Development Control Plans

The following is an assessment against relevant environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.2.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

SEPP (Building Sustainability Index – BASIX) 2004

#### 2.2.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the objectives of the plan.
Part 2 Permitted or prohibited de	velopment	
Land Use Table  ■ R3 Medium Density  Residential Zone	Yes	The proposal is defined as alterations and additions to a multi-dwelling housing development, which is permitted with consent in the R3 Medium Density Residential zone.
Part 4 Principal development star	ndards	
<ul><li>4.3 Height of buildings</li><li>9.5m</li></ul>	No	The proposal has a building height of 11.14m and exceeds the building height development standard by 1.64m (variation of 17.26%).
4.4 Floor space ratio • 0.6:1	No	The proposal has a gross floor area of 435m <sup>2</sup> resulting in a FSR 0.67:1 (variation of 11.78%).
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
Part 5 Miscellaneous provisions		
5.21 Flood planning	Yes	The site is identified as a flood area. However, no works are proposed to the ground level.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is identified as containing Class 5 Acid Sulfate soils. The proposal does not seek to disturb existing soils on the site.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

## Clause 4.6 Exceptions to Development Standards - Height of Buildings

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of buildings development standard of 9.5m. The proposed development has a building height of 11.14m, exceeding the standard by 1.64m equating to a 17.26% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposed building bulk is commensurate in scale and character with surrounding developments in the streetscape presenting as a two storey dwelling.
  - (ii) The proposed building height is compliant with the height of buildings development standard except for the requirement to calculate building height from the existing basement level. The proposal does not present as a building greater than 9.5m when viewed from the public domain and the existing basement level does not contribute to building bulk.
  - (iii) The proposal satisfies the objectives of the height of buildings development standard notwithstanding the non-compliance as the bulk and scale is compatible with the existing and desired future character of the area and does not result in any adverse amenity impacts on surrounding properties.
  - (iv) The proposal satisfies the objectives of the R3 medium Density Residential zone as the residential use is retained and will contribute to the housing needs of the community.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The proposal does not change existing front, side or rear setbacks of the dwelling, landscaped area, private open space or car parking. The attic addition is built within the existing footprint of the dwelling and does not result in additional loss of privacy, views or solar access impacts on surrounding properties.
  - (ii) The proposal substantially improves amenity for occupants without any adverse amenity impacts on surrounding properties.
  - (iii) The proposed built form and scale is compatible with the medium density character of the area which comprises a mix of two to four storey developments.

- (iv) Existing vegetation within the streetscape will partially obscure direct views of the proposal from the public domain.
- (v) The proposed materials and finishes are consistent with the existing materials and finishes of the dwelling and adjoining dwellings within the site. The attic level addition is consistent with the existing façade treatments for the multi-dwelling housing development and will not detract from the character of the site.

#### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

#### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The justification provided has demonstrated that the proposed scale of the attic

level addition results in a building bulk and scale that is compatible with the built form and scale of the multi-dwelling housing development on the site and surrounding developments within the streetscape and local area. Notwithstanding the variation sought to the height of building development standard, the proposal does not result in any additional loss of privacy, views or solar access to principle living space and private open space and will preserve the amenity of surrounding properties.

#### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the justification has demonstrated that the attic addition, notwithstanding the non-compliance resulting from the measurement of building height from the finished floor level of the existing basement, does not change the existing building footprint of the dwelling, landscaped or open space areas, and presents a building height that is consistent with various building heights (between two and four storeys) of surrounding developments. The proposed addition, when viewed from the public domain and surrounding properties, is consistent with the built form of two and three storey buildings within the street and would be compliant with the building height control if the existing building did not contain a basement level. As such, the proposal is compatible with the medium density character of the locality and will not result in any additional or adverse environmental impacts on surrounding properties and is acceptable.

#### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

The proposal has demonstrated that notwithstanding the non-compliance, the proposal satisfies the relevant objectives of the height of buildings development standard as the variation which is contained within a roof form that does not detract from the bulk and scale of surrounding developments within the streetscape and does not result in any additional overshadowing or privacy impacts on adjoining properties.

The objectives of the R3 Medium Density Residential zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposal is consistent with the objectives of the R3 Medium Density Residential zone, as it maintains the existing multi dwelling housing development on the site which is consistent with the various residential developments provided within the locality.

#### Conclusion

For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R3 Medium Density Residential zone.

#### Clause 4.6 Exceptions to Development Standards - FSR

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.6:1. The proposed development has a FSR of 0.67:1, exceeding the standard by 45.84m<sup>2</sup> equating to a 11.78% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal is a reasonable scale that is commensurate to the scale and character of developments in the streetscape.
  - (ii) The proposal will increase the amenity for occupants of the dwelling whilst having minimal impact on the amenity of surrounding properties. In particular, the proposal does not result in any adverse impacts on solar access, privacy or views from adjoining properties.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The proposal is contained within the existing building footprint and is an extension of the roof space.
  - (ii) The proposed external materials and finishes is consistent with the existing materials and finishes of the development and does not detract from the appearance of the site from the streetscape or adjoining properties.
  - (iii) The proposal is compatible with the character and built form in the locality, particularly as William Street comprises various residential developments between two and four storeys in height.
  - (iv) No change is proposed to existing landscaped areas, private open space or setbacks.
  - (v) The proposal does not result in any view loss, overlooking, loss of visual or acoustic privacy, or solar access to adjoining properties.
  - (vi) The proposal contributes to housing types to meet the demand of residential needs in the community.

#### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

#### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The justification provided demonstrates that the proposal satisfies the objectives of the FSR development standard as the bulk and scale of the attic addition is compatible with the character of the streetscape and preserves the environmental amenity of surrounding properties as there is no adverse impact on solar access, privacy or views.

#### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the attic addition is contained with the footprint of the existing dwelling, does not detract from the character of the multi-dwelling housing development when viewed from the public domain or adjoining properties and is compatible with mix of architectural types within the streetscape. The proposal will not result in any unreasonable amenity impacts on surrounding properties or the public domain.

#### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

- (b) to provide an appropriate correlation between maximum building heights and density controls,
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

The proposal is consistent with the objectives of the FSR development standard as the attic level addition does not result in excessive building bulk and scale, is compatible with the scale of surrounding developments within the medium density locality and will preserve the environmental amenity of surrounding properties.

The objectives of the R3 Medium Density Residential zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposal is consistent with the objectives of the R3 Medium Density Residential zone as it maintains the existing multi dwelling housing development on the site which is consistent with the various residential developments provided within the locality.

#### Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R3 Medium Density Residential zone.

#### 2.2.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) - Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
Ecologically Sustainable     Development	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory.

Table 3: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
3.1 Site, scale and frontage		
<ul><li>Minimum frontage:</li><li>15m</li></ul>	No – as existing	The site has an existing frontage of 12.19m. No change is proposed to the site frontage.
3.2 Height		
<ul><li>Maximum external wall height:</li><li>7m</li></ul>	No - as existing	The existing building wall height of the subject unit measured to the existing ground level of the basement is 7.9m which exceeds the maximum external wall height control.
		The proposal does not seek to extend the wall height of the dwelling on the east and west elevations as the gutter line will match the existing gutter line.
		The proposed roof form projects above the existing roof line of the multi dwelling housing development and will be visible from the street and adjoining properties. However, it is noted that the existing roof form projects above the roof of adjoining dwellings within the development and is not uniform in appearance. The proposal does not result in excessive building bulk and is acceptable.
3.3 Setbacks		
<ul><li>3.3.1 - Street setbacks</li><li>Consistent street setback</li></ul>	Yes	No change is proposed to the street setback as the subject unit is located behind Unit 1, which has a frontage to William Street. The existing building is consistent with the predominant front setback of surrounding properties on the southern side of William Street.
3.3.2- Side and rear setbacks		The proposed second storey addition is setback 2.7m from the eastern side boundary and 3.5m
<ul> <li>Minimum side setback:</li> <li>1.5m</li> <li>Minimum rear setback:</li> <li>6m or predominant rear</li> </ul>	Yes As existing	from the western side boundary. No change is proposed to the existing rear building setback as the subject unit is located in the middle section of the existing building.

Development Control	Compliance	Comment
<ul> <li>building line, whichever is the greater setback</li> <li>Deep soil along side boundary min 2m wide</li> </ul>	As existing	No change is proposed to existing landscaped areas.
3.5 Building design and streets	scape	
<ul> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Removal of original architectural features not supported.</li> </ul>	Yes Yes Yes	The proposal does not exceed the height of surrounding residential flat buildings and comprises external materials that are consistent with the materials and finishes of the existing building. No significant architectural features are proposed to be removed.
3.13 Solar access and overshad	lowing	
<ul> <li>Minimum of three hours of sunlight to a minimum of 70% of units in the development on 21 June</li> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid-winter.</li> <li>Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>	Yes Yes	The subject unit receives at least 3 hours of sunlight and complies with the solar access requirements. No change is proposed to the sunlight received by the subject unit or any existing units within the development.  The skylights on the roof of No. 23 William Street will be overshadowed between 2pm and 3pm. However, the adjoining property receives a minimum of 2 hours of direct sunlight between 9am and 1pm.  The proposal does not impact solar access to existing north facing windows of adjoining properties or private open spaces. Minor additional overshadowing to a west facing bedroom window at No. 23 William Street will occur between 1pm and 1.30pm, however given the extent of existing shadowing to the window, the proposal is not considered to have any unreasonable impact on the amenity of the adjoining property and is acceptable.  The proposal will not have any additional overshadowing impacts on properties beyond the immediately adjoining properties to the east and west of the site.
3.14 Views and view sharing		
<ul> <li>Minimise view loss through design.</li> <li>Views from public spaces</li> </ul>	Yes Yes	There are no views from adjoining properties or the public domain that will be affected by the proposal.
to be maintained.	103	
3.15 Visual privacy and securit	у	
Dwellings to be orientated to the street	As existing	The entry to the subject site is provided along the western side boundary. No change is proposed.

Development Control	Compliance	Comment	
<ul> <li>with entrances and street numbering visible</li> <li>Privacy be considered in relation to context density, separation use and design.</li> </ul>	Yes	The proposed attic level does not have any new window openings that overlook adjoining properties. The proposed skylights provide natural light to the attic and does not have views towards windows or private open space of adjoining properties.	
Prevent overlooking of more than 50% of private open space of lower level dwellings in same development	Yes		
3.16 Dwelling size and layout			
Max habitable room depth for single aspect dwelling is 8m from a window	Yes	The depth of the attic level is 6.96m and does not exceed the depth of the existing dwelling.	
All habitable rooms to have a window	Yes	The subject unit contains two bedrooms and has a GFA of 94m <sup>2</sup> and complies with the minimum unit size requirement.	
• Min sizes 2 bedroom = 80m²	Yes	The proposal provides sufficient internal areas within the unit for flexible furniture layouts for	
Flexible design	Yes	occupants.	
3.17 Ceiling Heights			
Min 2.4m floor to ceiling height for attic level	No	The proposed attic level has a minimum floor to ceiling height of 2.2m for a depth of 1.14m. The central area of the attic level achieves a floor to ceiling height of 2.4m with access to natural sunlight provided by skylights on the east and west roof slopes. The proposal satisfies the minimum floor to ceiling height of 2.2m in accordance with the BCA provisions for attic rooms and is acceptable.	
3.18 Storage			
In addition to kitchen cupboards and bedroom wardrobes, min storage required for 2 bed unit = 8m <sup>3</sup>	Yes	Adequate storage is proposed within the attic level.	
3.19 Acoustic privacy			
Internal amenity by locating noisy areas away from quiet areas	Yes	No change is proposed to the existing location of main living areas. The proposed attic contains a study area and storage and will not result in any adverse noise impacts for occupants or adjoining properties.	
3.20 Natural Ventilation			

Development Control	Compliance	Comment
All dwellings to be naturally cross-	Yes	No change is proposed to the natural cross ventilation of the subject unit.
<ul><li>ventilated</li><li>Building to be orientated</li></ul>	to be orientated As existing hise breezes As existing No	The existing orientation of the building remains unchanged.
<ul> <li>to maximise breezes</li> <li>Ceiling fans are to be provided in all habitable rooms.</li> </ul>		No ceiling fans have been shown or proposed. Given the area and floor to ceiling height within the attic level, no ceiling fans is acceptable in this circumstance.

#### 2.3. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.4. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.5. Any Submissions

The application was notified for 14 days between 10 August and 24 August 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of one unique submissions were received from the following property:

27 William Street, Rose Bay

The following issues raised in the submissions have already been discussed and addressed in the body of this report

- Loss of solar access.

#### 2.6. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

#### 3. REFERRALS

No internal or external referral comments were sought.

#### 4. CONCLUSION

The section 8.2 review application seeks to review the determination of DA-15/2022 for alterations and additions to Unit 2 within the existing multi-dwelling housing development including a new second floor level at the site known as 21 William Street, Rose Bay. The review application has amended the original development application to address the principal reasons for refusal, which were as follows:

- Variation to the height of buildings and floor space ratio development standards results in excessive building bulk and scale and has adverse impacts on the amenity of adjoining properties.
- The proposed bulk and scale is not suitable for the existing development on the site and is inconsistent with the character of surrounding developments.
- The Clause 4.6 written justifications for variations to the height of buildings and floor space ratio
  development standards have not adequately demonstrated that the proposal, notwithstanding
  the non-compliances, satisfies the objectives of the development standards, particularly the
  preservation of environmental amenity of neighbouring properties.
- The Clause 4.6 written justifications have not adequately demonstrated that the proposed noncompliance with the development standards is unreasonable or unnecessary and that there are sufficient environmental grounds for the variations sought.

The assessment finds these issues have been addressed in this review application as the proposed new second level to the dwelling has been reduced in area and height, will be contained within an attic roof form and does not result in any additional overshadowing or privacy impacts on adjoining properties.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

The application has been assessed against the relevant matters for consideration under sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. It is recommended to change the determination of refusal to approval, subject to conditions of consent.

#### Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 3 May 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara and B Magistrale* 

#### 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the review application be APPROVED by the Waverley Local Planning Panel subject to conditions contained in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:	
P. Darg		
Peggy Wong	Bridget McNamara	
Senior Development Assessment Planner	Manager, Development Assessment (Area 3)	
	(Reviewed and agreed on behalf of the	
	Development and Building Unit)	
Date: 28 September 2022	Date: 10 October 2022	

#### Reason for WLPP referral:

- 1. The original application was refused by the Waverley Local Planning Panel.
- 2. Exceeds WLEP standard by more than 10%

## APPENDIX A - CONDITIONS OF CONSENT

#### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Good Spaces of Project No: 2125 including the following:

Plan Number and	Plan description	Plan Date	Date received by
Revision			Council
DA.101, Rev N	Site Plan	16 July 2022	22 July 2022
DA.103, Rev N	Demolition Plan	16 July 2022	22 July 2022
DA.104, Rev N	Floor Plans	16 July 2022	22 July 2022
DA.105, Rev N	Roof/Stormwater Concept	16 July 2022	22 July 2022
DA.201, Rev N	Elevations	16 July 2022	22 July 2022
DA.202, Rev N	Elevations	16 July 2022	22 July 2022
DA.301, Rev N	Sections	16 July 2022	22 July 2022
DA.302, Rev N	Site Sections	16 July 2022	22 July 2022

- (b) BASIX Certificate
- (c) Schedule of external finishes and colours, Drawing No. DA.601, Revision N dated 16 July 2022 prepared by Good Spaces and received by Council on 22 July 2022
- (d) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 22 July 2022

Except where amended by the following conditions of consent.

#### **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

#### **GENERAL REQUIREMENTS**

#### 2. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **CONTRIBUTIONS, FEES & BONDS**

#### 3. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:
    - "Waverley Council Cost Summary Report"; or,
  - (ii) Where the total development cost is \$500,000 or more: "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy.
  - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% OR
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% based on the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### 4. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of **\$2,900** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### 5. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

#### **CONSTRUCTION & SITE MATTERS**

#### 6. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

#### 7. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

#### 8. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

### TRAFFIC MANAGEMENT

### 9. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development\_applications/post\_determination/development\_applications - conditions of consent

### STORMWATER & FLOODING

### 10. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- (a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- (b) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (c) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- (d) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

 The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.

- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to
  ensure any additional damage or unauthorised works within the Council property, not
  conditioned above. Council will reserve the right to withhold the cost of restoring the
  damaged assets from the security deposit should the applicant fail to restore the defects
  to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: <u>assets@waverley.nsw.gov.au</u> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

### 11. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

### **ENERGY EFFICIENCY & SUSTAINABILITY**

### 12. BASIX

All requirements of the BASIX Certificate are to be shown on the Construction Certificate plans and documentation.

### WASTE

### 13. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

### 14. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

### C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### PRIOR TO ANY WORKS

### 15. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

### **DEMOLITION**

### 16. DEMOLITION - ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or

- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

### 17. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

### **CONSTRUCTION MATTERS**

### 18. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

### 19. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

### 20. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002,* clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

### 21. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

### 22. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

### TREE PROTECTION AND REMOVAL

### 23. TREE PROTECTION

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

### 24. STREET TREES TO BE RETAINED/TREE PROTECTION

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

## D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS

### 25. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### 26. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### 27. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### 28. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to <a href="mailto:info@waverley.nsw.gov.au">info@waverley.nsw.gov.au</a> or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.

- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

### **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

### AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

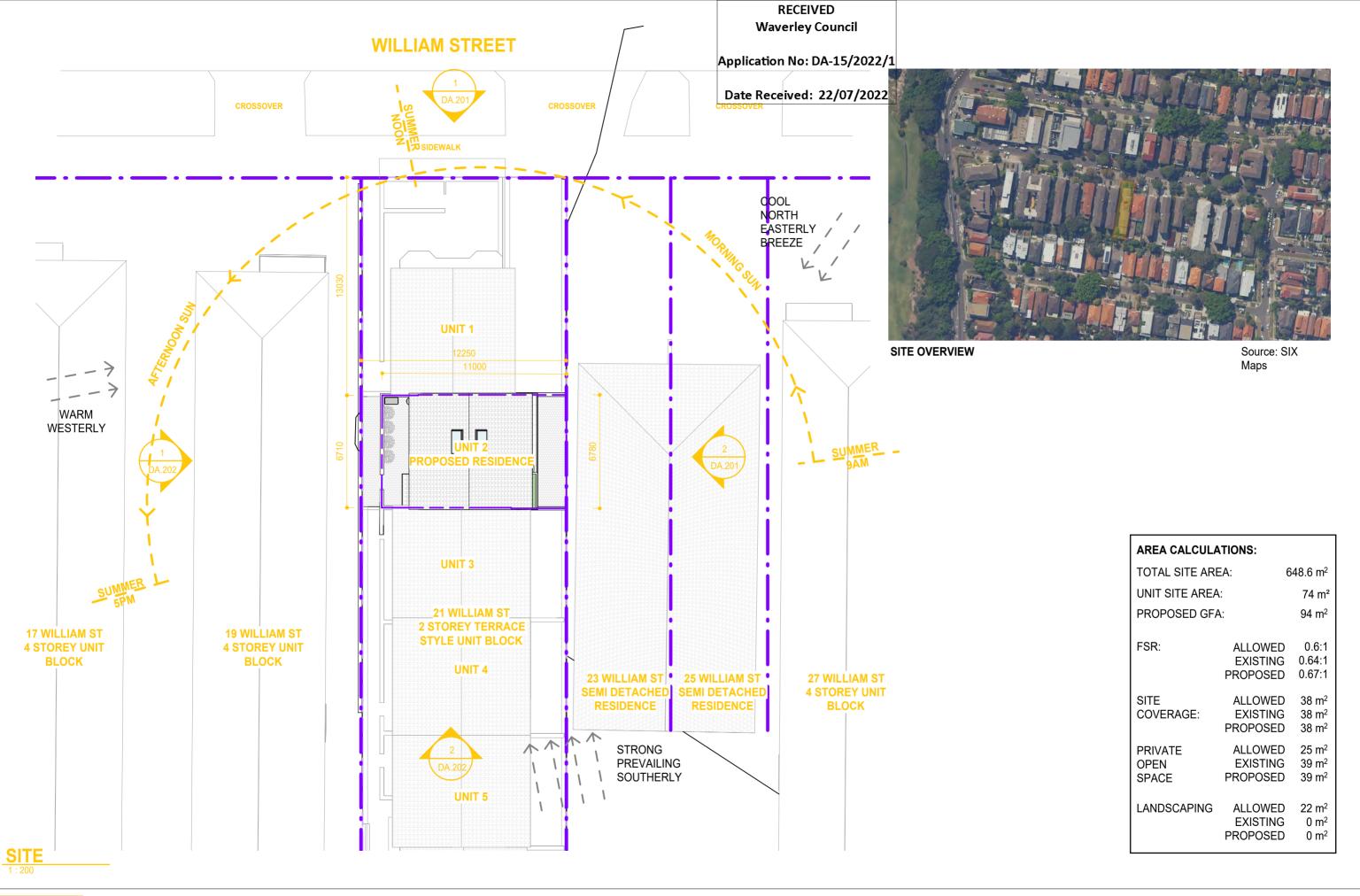
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

### AD5. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

### AD6. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.





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NORTH

Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA				SITE PLAN
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	404
Revision	N	Drawn by	LS	DA	\.101
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 200@ A

### DEMO NOTES:

CAP OFF EXISTING PLUMBING AND ELECTRICAL WORKS AS NEEDED BY QUALIFIED TRADE.

SITE WASTE TO BE DISPOSED OF AS PER COUNCIL GUIDELINES.

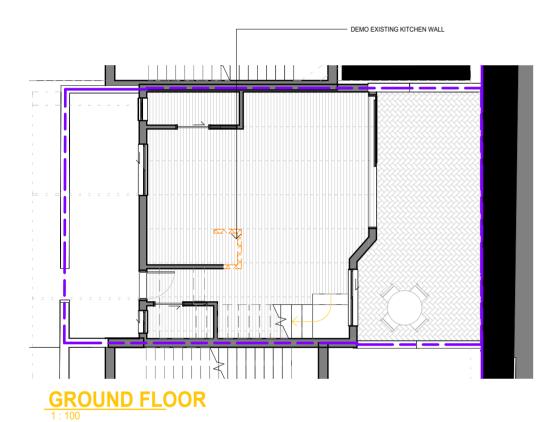
SEDIMENT CONTROL TO BE PROVIDED WHERE NECESSARY.

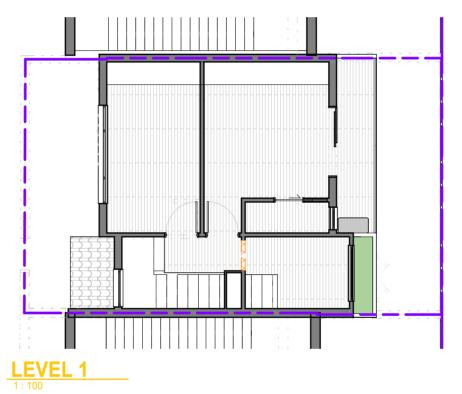
MATERIAL RE-USE AS SPECIFIED BY DRAWINGS OR DIRECTLY BY OWNER ONLY.

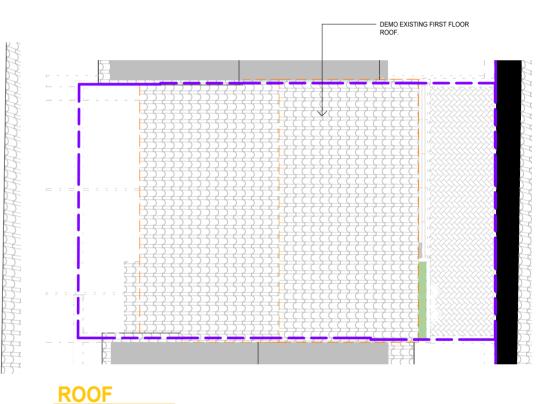
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Application No: DA-15/2022/1

Date Received: 22/07/2022







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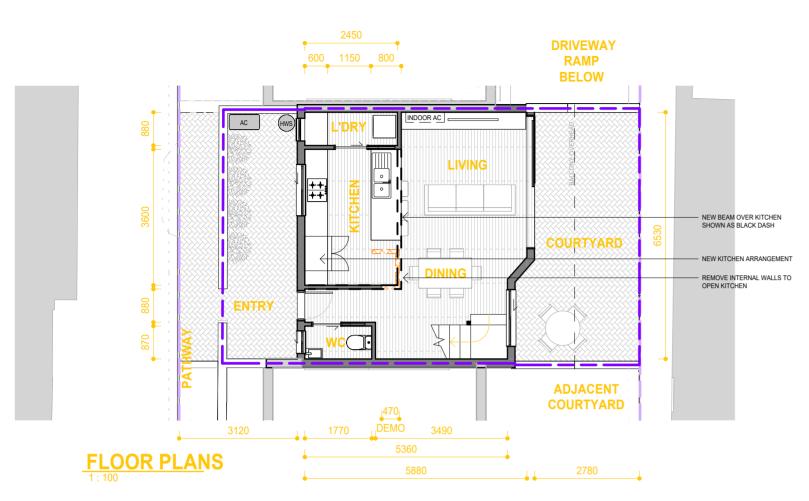
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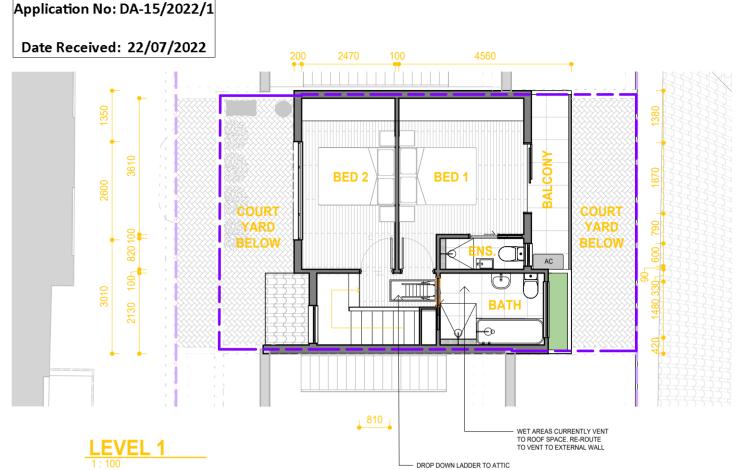
www.goodspaces.com.au

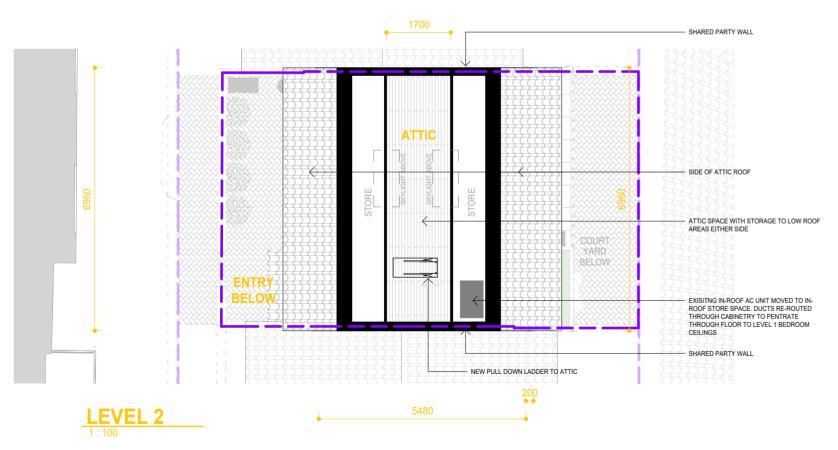
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NORTH

Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA	DEMOLITION PLAN			
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	400
Revision	N	Drawn by	LS	DA.103	
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 100@ A3









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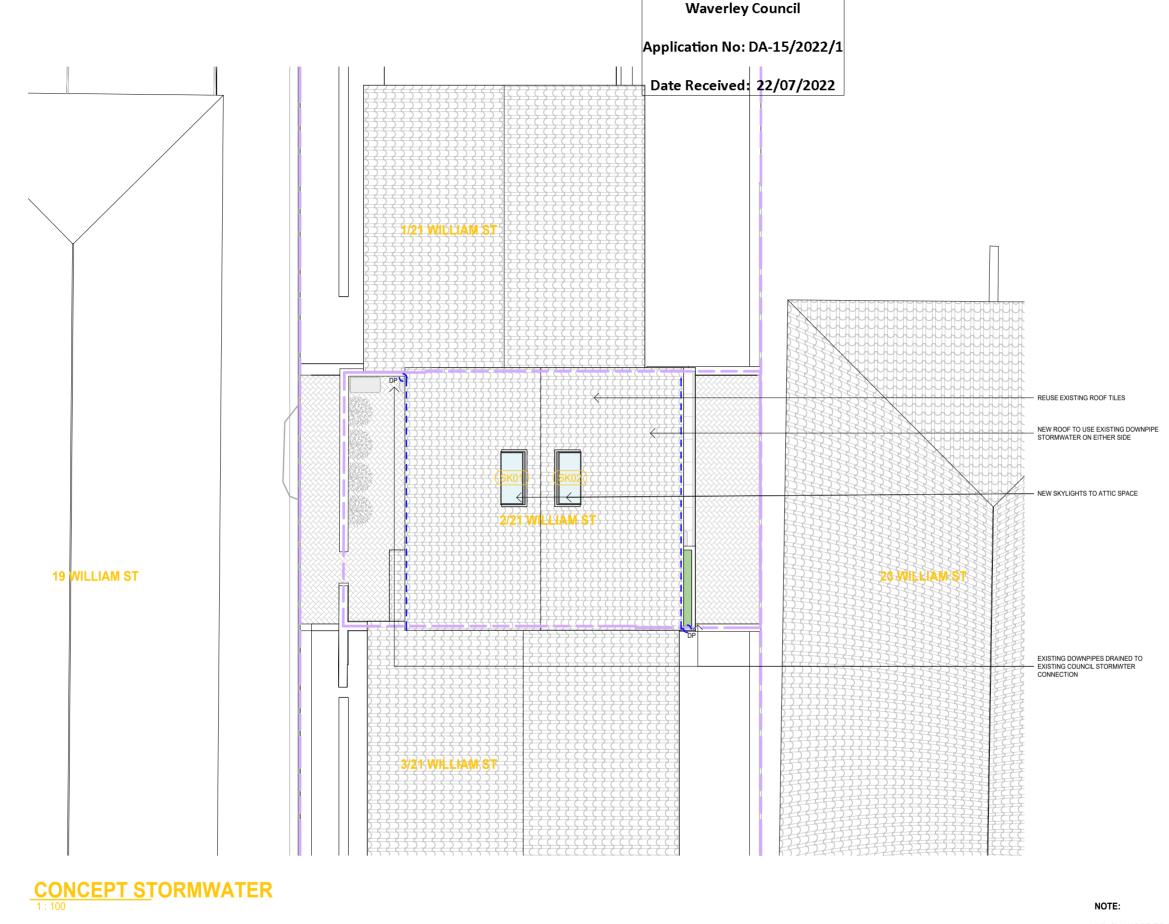
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Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA			FLO	OR PLANS
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	404
Revision	N	Drawn by	LS	DP	<b>\.104</b>
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 100@ A3



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NO CHANGES TO NET STROMWATER COLLECTION AREAS. EXISTING DOWNPIPE AND DISCHARGE SYSTEMS USED. STORMWATER CONNECTED TO COUNCIL DISCHARGE POINT.



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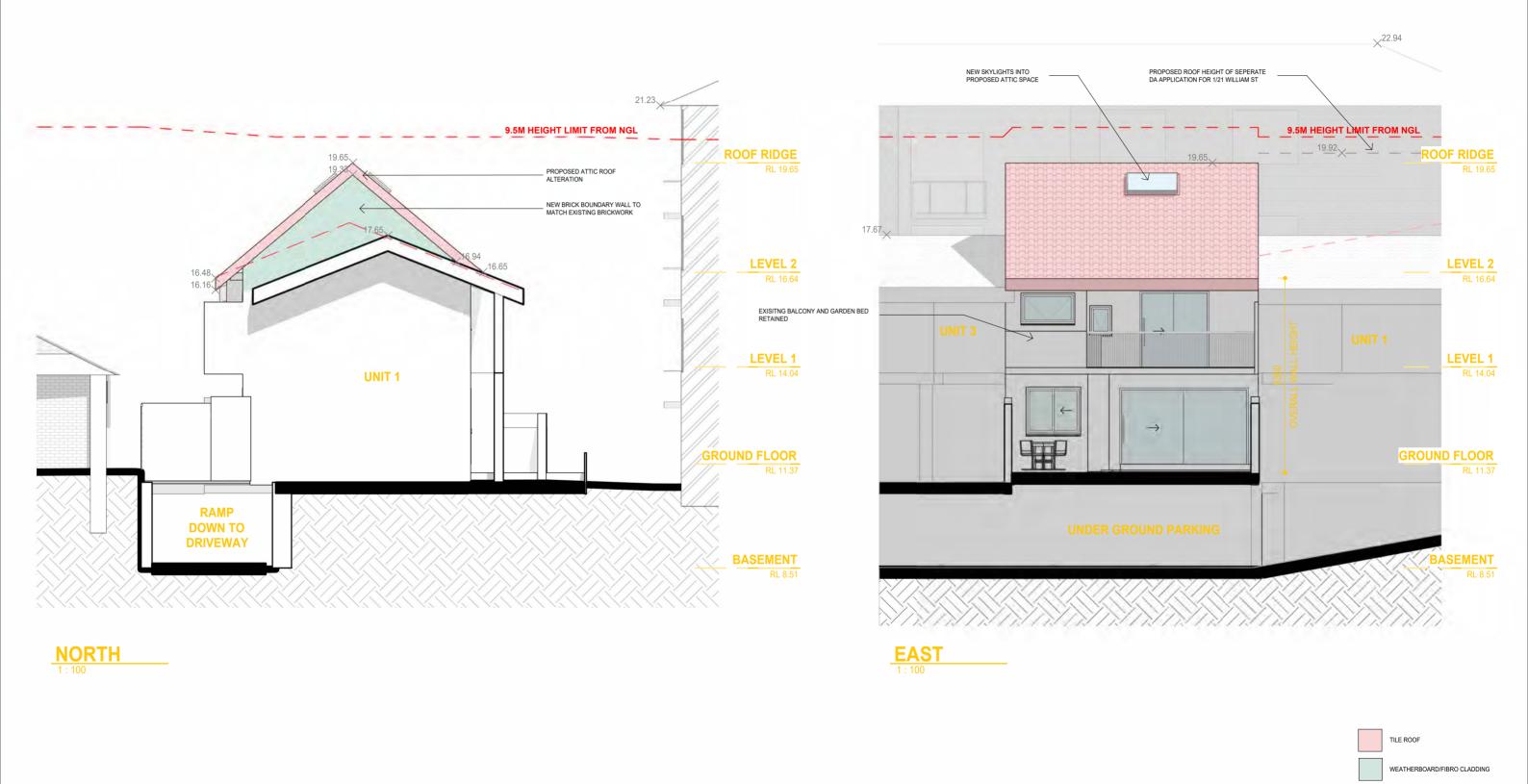
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Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA	ROOF/STORMWATER CONCEPT			
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	405
Revision	N	Drawn by	LS	DF	<b>\.105</b>
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 100@ A3

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Waverley Council
Application No: DA-15/2022/1

Date Received: 22/07/2022



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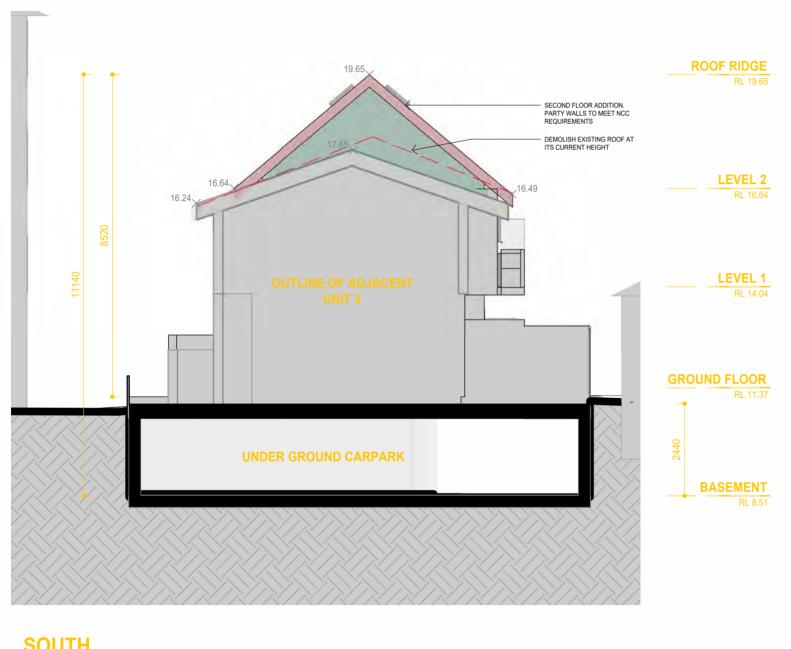
GENERAL NOTES: These drawings shall be read in conjunction with each other and with all consultants drawings and documentation. All dimensions are in mm unless otherwie stated. All RL's in metres. Use figured dimensions only. Verify all dimensions on site before the commencement of any works. Do not scale off drawings. Any discrepancies are to be made to the author prior to commencement on site. All work shall be carried out in accordance with ASA, BCA and local government regulations.

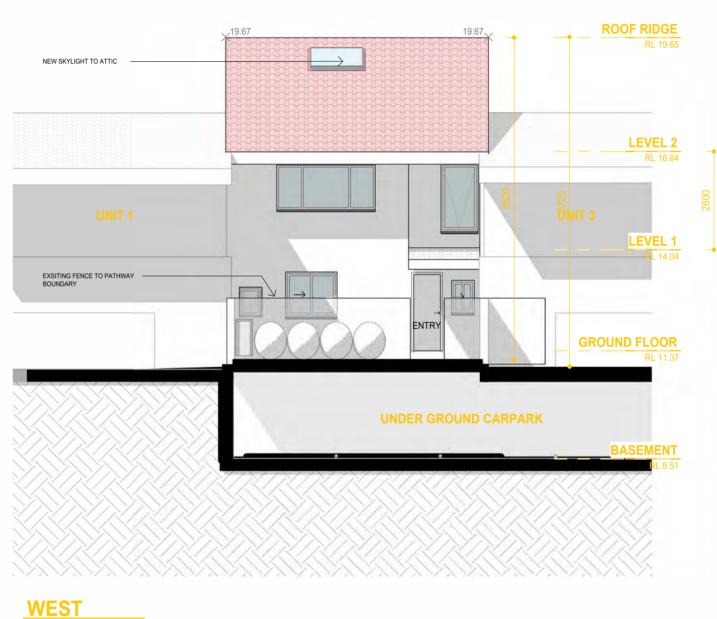
Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA			El	EVATIONS
Status	DA AMENDMENT	Project number	2125	6	004
Revision	N	Drawn by	LS	D F	<b>\.201</b>
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 100@ A3

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Application No: DA-15/2022/1

Date Received: 22/07/2022





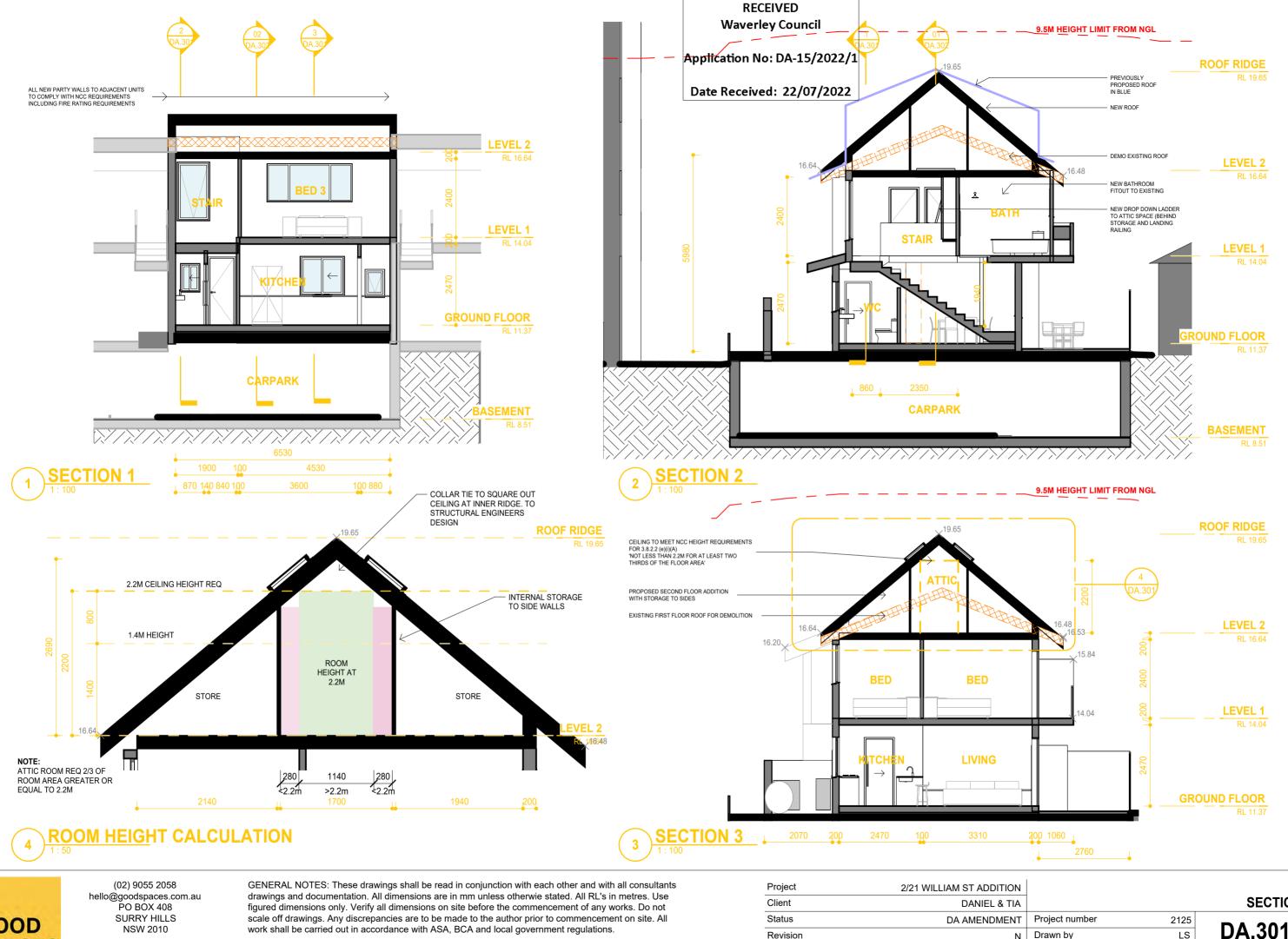




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Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA			El	EVATIONS
Status	DA AMENDMENT	Project number	2125	6	
Revision	N	Drawn by	LS	D F	<b>A.202</b>
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 100@ A3

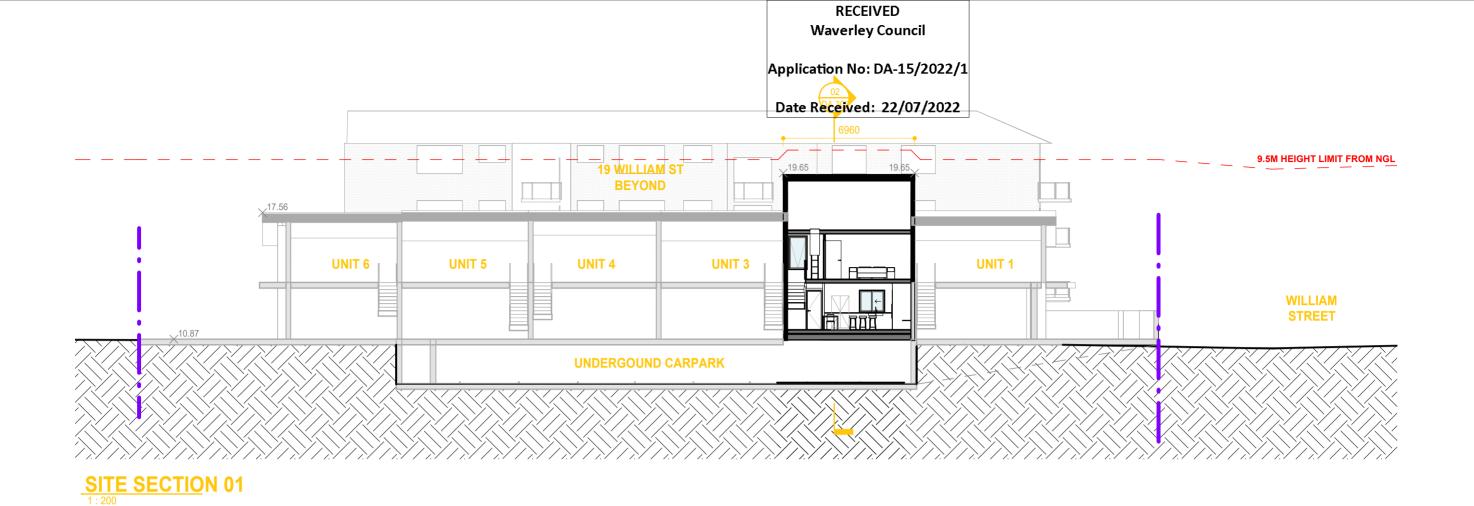


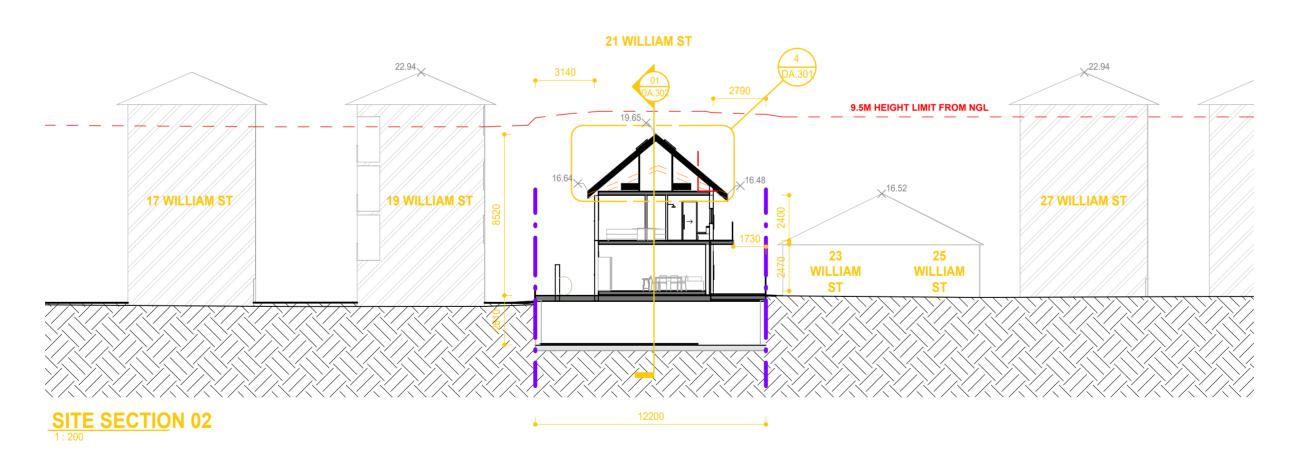


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work shall be carried out in accordance with ASA, BCA and local government regulations.

Client	DANIEL & TIA			SECTIONS
Status	DA AMENDMENT	Project number	2125	DA 004
Revision	N	Drawn by	LS	DA.301
Description	DA ISSUE	Date	16 JULY 22	Scale As indicated@ A3







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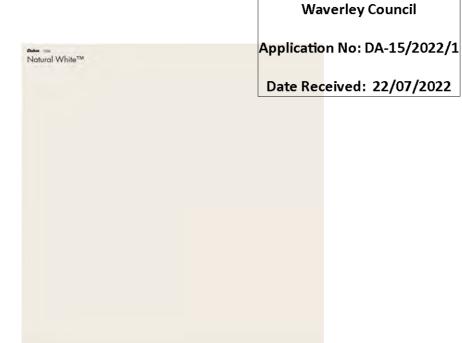
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Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA			SITE	SECTIONS
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	
Revision	N	Drawn by	LS	DA.302	
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 200@ A3

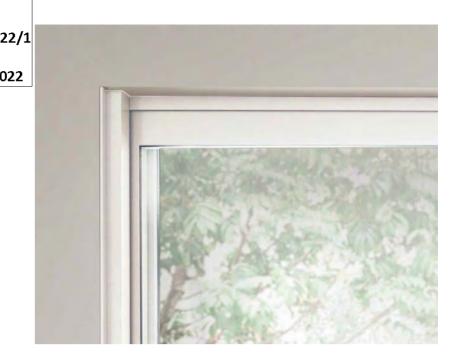


HARDIE PLANK WEATHERBOARD OR SIMILAR IN LIGHT COLOURWAY. TO MATCH EXISITNG



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BAG/SMOOTH RENDER IN DULUX NATURAL WHITE OR SIMILAR



WINDOWS & DOOR FRAMES

ALUMINIUM FRAME - SURFMIST OR SIMILAR



ROOF TILES TO MATCH OR REUSE EXISTING



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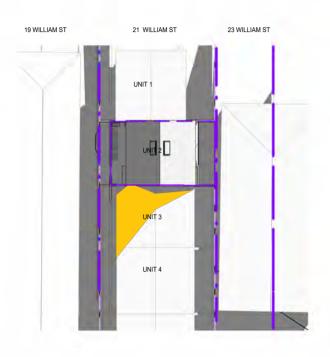
Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA			F	INISHES
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	004
Revision	N	Drawn by	LS	DA.601	
Description	DA ISSUE	Date	16 JULY 22	Scale	@ A3

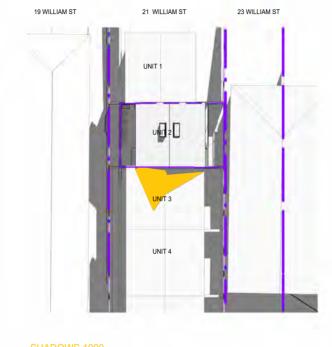
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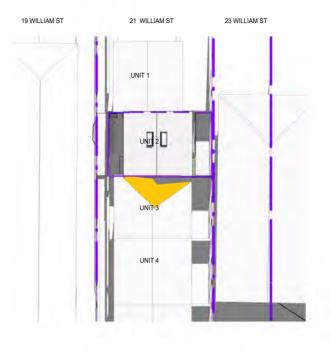
Application No: DA-15/2022/1

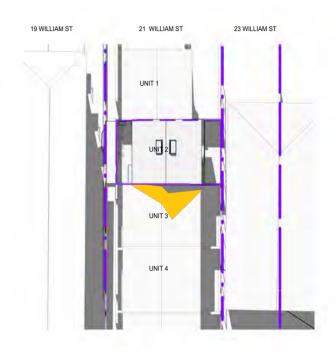
Date Received: 22/07/2022

# OVERSHADOWING TO 23 WILLIAM ST ROSE BAY (LOOKING EAST)

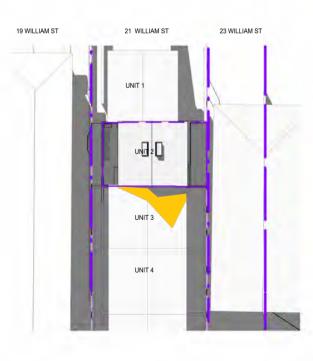








SHADOWS 0900





19 WILLIAM ST
21 WILLIAM ST
23 WILLIAM ST
UNIT 1
UNIT 3
UNIT 4

EXISTING SHADOWS

PROPOSED SHADOWS

SHADO



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SHADOWS 1400

Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA			SHADO	WS - PLAN
Status	DA AMENDMENT	Project number	2125	<b>D</b>	704
Revision	N	Drawn by	LS	D <i>F</i>	<b>4.701</b>
Description	DA ISSUE	Date	16 JULY 22	Scale	1 : 400@ A3

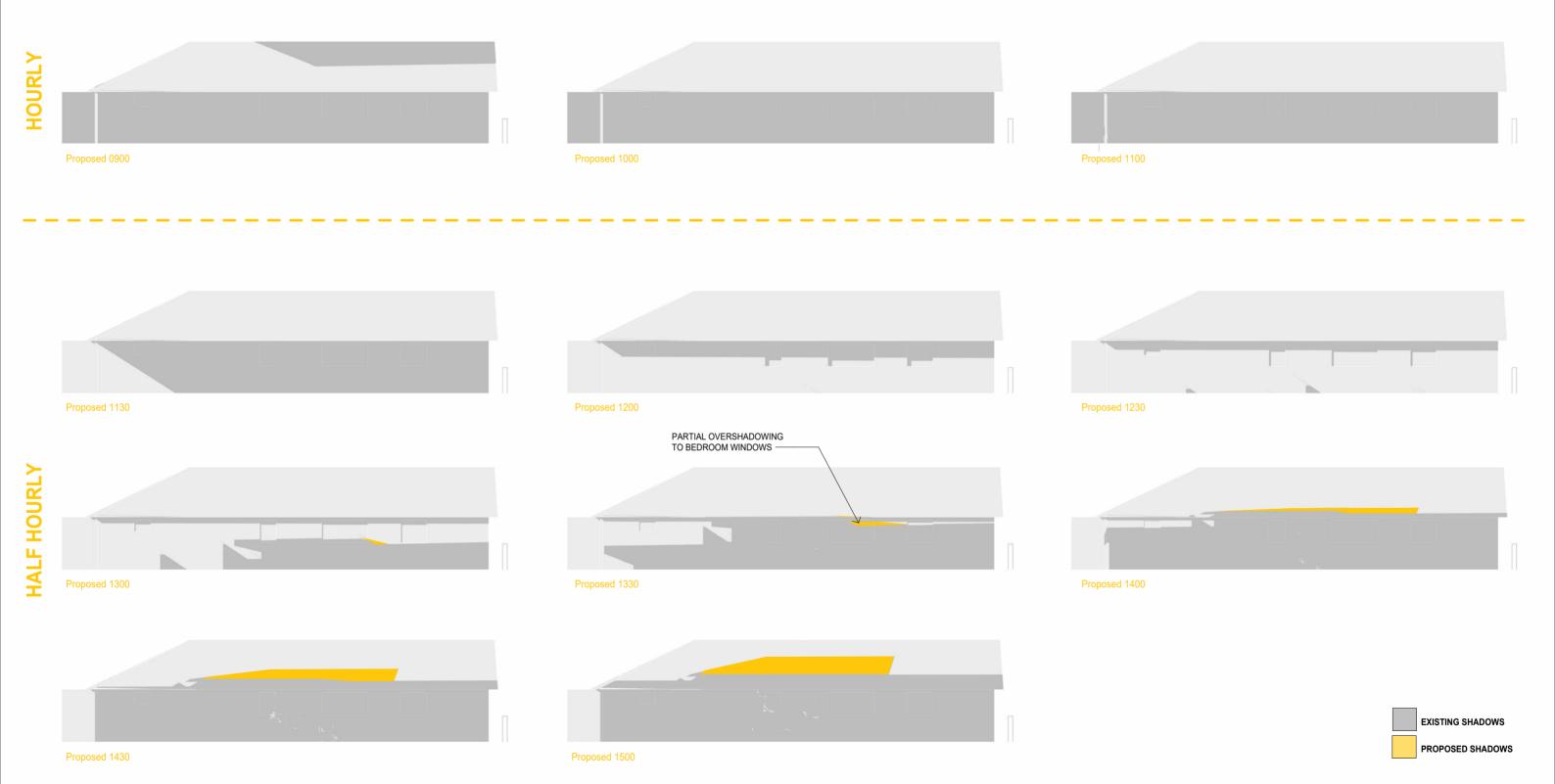
# OVERSHADOWING TO 23 WILLIAM ST ROSE BAY (LOOKING EAST)

TIMES AT WINTER SOLSTICES (21ST JUNE)

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Application No: DA-15/2022/1

Date Received: 22/07/2022





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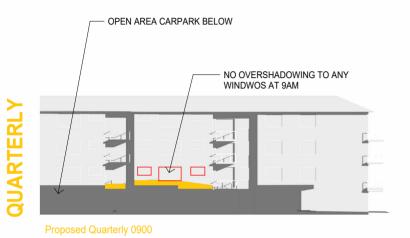
GENERAL NOTES: These drawings shall be read in conjunction with each other and with all consultants drawings and documentation. All dimensions are in mm unless otherwie stated. All RL's in metres. Use figured dimensions only. Verify all dimensions on site before the commencement of any works. Do not scale off drawings. Any discrepancies are to be made to the author prior to commencement on site. All work shall be carried out in accordance with ASA, BCA and local government regulations.

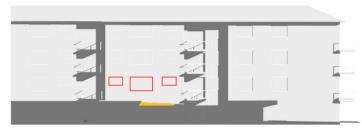
Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA	SHADOWS - EAST ELEVATION			
Status	DA AMENDMENT	Project number	2125	<b>D</b>	700
Revision	N	Drawn by	LS	DA.702	
Description	DA ISSUE	Date	16 JULY 22	Scale	@ A3

Date Received: 22/07/2022

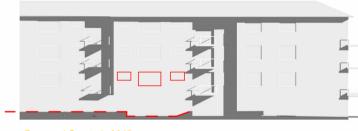
### **OVERSHADOWING TO 19 WILLIAM ST ROSE BAY** (LOOKING WEST)

TIMES AT WINTER SOLSTICES (21ST JUNE)





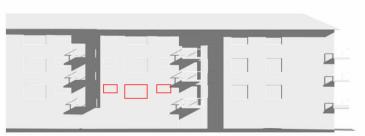


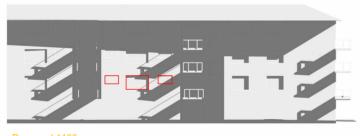


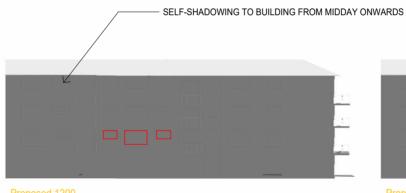
Proposed Quarterly 0915

Proposed Quarterly 0930

Proposed Quarterly 0945









Proposed 1000

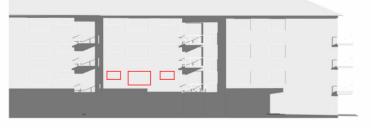
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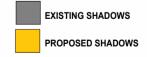
Proposed 1100

Proposed 1200

Propsoed 1300







Proposed 1400

Proposed 1500



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Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA	SHADOWS - WEST ELEVATIONS			
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	700
Revision	N	Drawn by	LS	DA.703	
Description	DA ISSUE	Date	16 JULY 22	Scale	@ A3

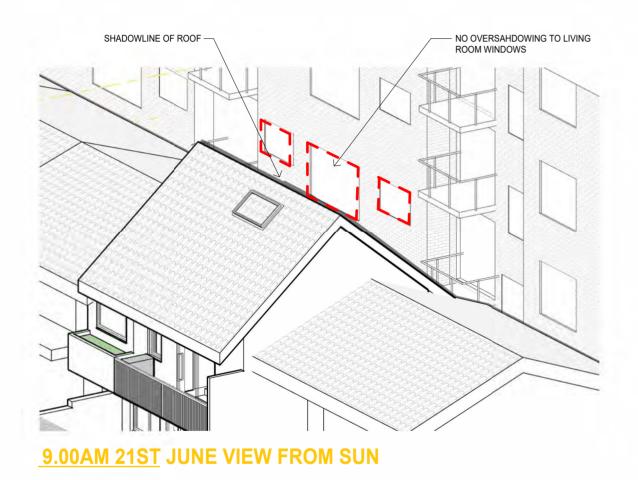
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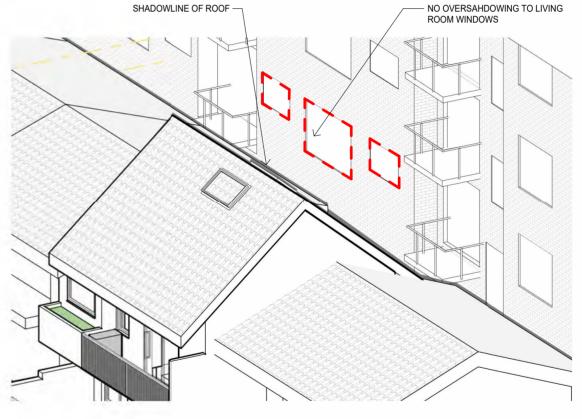
Application No: DA-15/2022/1

Date Received: 22/07/2022

## QUARTERLY OVERSHADOWING TO 19 WILLIAM ST ROSE BAY (VIEW FROM SUN)

TIMES AT WINTER SOLSTICES (21ST JUNE)





9.15AM 21ST JUNE VIEW FROM SUN



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Project	2/21 WILLIAM ST ADDITION				
Client	DANIEL & TIA		SHADOWS	- VIEW FF	ROM SUN
Status	DA AMENDMENT	Project number	2125	<b>D</b> 4	704
Revision	N	Drawn by	LS	DA.	<i>1</i> 04
Description	DA ISSUE	Date	16 JULY 22	Scale	@ A3





### Report to the Waverley Local Planning Panel

Application number	DA-104/2022		
Site address 102 Bondi Road, Bondi Junction			
Proposal	Alterations and additions to dwelling including attic conversion with front dormer windows and rear addition, and a new swimming pool.		
Date of lodgement	23 March 2022		
Owner	Mr J and Mrs E Simpson		
Applicant	Alexander Jankov Design Studio		
Submissions	Two submissions		
Cost of works	\$120,164		
Principal Issues      Building Height     Floor Space Ratio			
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.		

### SITE MAP



### 1. PREAMBLE

### 1.1 <u>Executive Summary</u>

The development application seeks consent for alterations and additions to the existing dwelling, including an attic addition including two front dormer windows and a rear roof extension, and a new swimming pool in the rear yard at the site known as 102 Bondi Road, Bondi Junction.

The principal issues arising from the assessment of the application are as follows:

- Building height
- Floor space ratio (FSR)

The assessment finds these issues acceptable, as the proposed architectural style and bulk of the attic additions do not exceed the existing height of the dwelling and are complementary to the heritage character of the dwelling and surrounding developments. The submitted Clause 4.6 written justifications seeking variation to the height of buildings and FSR development standards have adequately demonstrated that the proposal satisfies the objectives of the land use zone and the development standards and preserves the environmental amenity of surrounding properties. The proposal complements the existing streetscape and the desired future character of the area and does not detract from the significance of the heritage item, surrounding heritage items or the conservation area.

A total number of two submissions were received, including one submission in support of the proposal. The issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2 Site and Surrounding Locality

A site visit was carried out on 8 June 2022.

The site is identified as Lot B in DP 413062, known as 102 Bondi Road, Bondi Junction.

The site is rectangular in shape with a southern frontage to Bondi Road, measuring 6.115m and a secondary frontage to Paul Lane measuring 6.095m. It has an area of 260.6 m<sup>2</sup> and is generally flat except for a fall of 1.25m at the natural ground level immediately below the roof ridge of the existing dwelling to the front property boundary to the south.

The site is occupied by a two storey semi-detached terrace pair with the adjoining dwelling to the west at No. 110 Bondi Road. The site also contains a two car garage accessed from Paul Lane.

The site is adjoined by similar scale two storey terrace style dwellings to the east and west, and to the north (dwellings with a primary frontage to Woodstock Street and vehicular access and studios fronting Paul Lane. Opposite the site, on the southern side of Bondi Road, is Waverley Oval.

The site is within a predominantly residential neighbourhood.

Figures 1 to 4 are photos of the site and its context.



**Figure 1:** View of site looking north on Bondi Road



**Figure 3:** View of site and adjoining properties, looking south from Paul Lane



**Figure 2:** View of immediately adjoining developments looking north on Bondi Road



**Figure 4:** View of existing rear yard and garage looking north from rear yard (Source: Corona Projects, March 2022)

### 1.3 Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-421/2014 was approved on 10 December 2014 for alterations and additions to the dwelling, including ground floor extension, demolition of existing garage and construction of a two storey laneway structure consisting of a double garage with granny flat; and
- DA-421/2014 has been amended by a Section 4.55 modification (DA-421/2014/C) approved on 12 September 2022 for deletion of the secondary dwelling use and alterations to the configuration of the garage and studio including relocation of the entry door to the garage from the rear yard and window openings to the studio above.

### 1.4 Proposal

The development application seeks consent for alterations and additions to terrace style dwelling including a new attic level and a new swimming pool at the rear, specifically the following:

### **Ground Floor**

- Relocation of laundry;
- New 1000L rainwater tank within eastern side courtyard; and
- New swimming pool with pool fence and gate adjacent to existing verandah.

### First Floor

New stairs to attic level.

### <u>Attic</u>

- Attic level with new ensuite; and
- Rear roof extension and two front dormer windows.

### 1.5 Background

The development application was lodged on 23 March 2022 and deferred on 29 March 2022 for the following reasons:

 The originally submitted estimated cost of works value of \$87,164 is an underestimate given the scope of works consisting of a new attic addition and excavation and construction of a new swimming pool.

On 5 April 2022 a revised estimate for the cost of works with a value of \$120,164 was submitted and considered adequate for the proposed development.

### 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1 Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

### 2.1.1 State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Resilience and Hazards) 2021

### 2.1.2 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the objectives of the plan.
Part 2 Permitted or prohibited de	velopment	
■ R2 Low Density Residential Zone	Yes	The proposal is defined as alterations and additions to a dwelling, which is permitted with consent in the R2 Low Density Residential zone.
Part 4 Principal development star	ndards	
<ul><li>4.3 Height of buildings</li><li>9.5m</li></ul>		The existing dwelling has a height of 10.46m measured to the roof ridge, equating to a 10.1% variation to the height of buildings development standard.
	No	The proposed front dormer windows have a height of 9.57m (RL105.32), equating to a 0.7% variation and the rear dormer window has a height of 10.36m, equating to a 9.1% variation to the height of buildings development standard.
		Notwithstanding the variation sought to the height of building development standard, the structures will not exceed the height of the existing dwelling.
4.4 Floor space ratio and  4.4A Exceptions to floor space ratio		The recently approved FSR under DA-421/2014/C approved on 12 September 2022 is 0.88:1 (GFA of 229.6m²), equating to a variation of 7.3%.
• 0.82:1 (213.69m²)	No	The proposal seeks an additional 47.2m <sup>2</sup> contained within the attic space resulting in a FSR of 1.06:1 (276.8m <sup>2</sup> ), equating to a 29.5% variation.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.

Provision	Compliance	Comment			
Part 5 Miscellaneous provisions	Part 5 Miscellaneous provisions				
5.10 Heritage conservation		The site is identified as a heritage item (I154) containing Federation Filigree style terrace houses, including the adjoining dwelling at 100 Bondi Road. The pair of heritage terraces are adjoined by Nos. 96 and 98 Bondi Road to the west, which are also listed heritage items (I153) under Schedule 5 of the Waverley LEP 2012.			
	Yes	The site is within the Woodstock Street Conservation Area (C16) under the Waverley LEP 2012.			
		Council's Heritage Advisor has reviewed the proposal and raises no objection as the architectural style and form of the attic additions which are considered cohesive to the character of the dwelling, surrounding developments and the conservation area.			
Part 6 Additional local provisions					
6.2 Earthworks	Yes	The proposed excavation for the new swimming pool is setback from the eastern side boundary by 900mm and is consistent with the excavation controls under Part B14 of the Waverley DCP 2012. The proposed excavation is acceptable subject to conditions included in the recommendation.			
6.4 Terrestrial biodiversity	Yes	The proposed swimming pool will occupy an existing paved area within the rear yard and does not result in any changes to landscaped areas.			

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

### Clause 4.6 Exceptions to Development Standards - Height of Buildings

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of buildings development standard of 9.5m. The proposed development measured to the ridge of the rear dormer window has a building height of 10.36m, exceeding the standard by 0.86m equating to a 9.1% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal satisfies the objectives of the height of building development standard as the variation to the height control does not result in unreasonable building bulk and scale and is consistent with the architectural style of similar developments in the vicinity of the site.
  - (ii) The proposed dormer windows do not exceed the ridge height of the existing dwelling.
  - (iii) The proposal does not result in any additional amenity impacts on adjoining properties and satisfies the objective of the development standard to preserve the environmental amenity of surrounding properties.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The front dormer windows are cohesive with the adjoining semi-detached dwelling at No. 100 Bondi Road and does not have any adverse impacts on the streetscape or character of the locality.
  - (ii) The proposed rear dormer window is compliant with the controls for a skillion dormer window under the Waverley Development Control Plan 2012.
  - (iii) The proposal will enhance the amenity of occupants and have minimal impact on the bulk and scale of the building.
  - (iv) The proposal does not result in any adverse environmental amenity impacts on surrounding properties.

### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

(a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

Specifically, the applicant has adequately demonstrated that the proposed attic additions resulting in part of the roof of the front and rear dormer windows in breach of the height variation, does not result in excessive bulk or scale and is consistent with the architectural style and character of attic additions in the vicinity of the site. The proposal does not detract from the character of the heritage item and adjoining heritage items, and will complement the character of the streetscape and conservation area.

The proposal does not result in any additional overshadowing or privacy impacts to habitable room windows or private open space of adjoining properties and will preserve the amenity of surrounding properties which satisfies the objective of the height of building development standard.

### Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the proposal does not exceed the height of the existing roof ridge and does not result in excessive building bulk or scale that is out of character with immediately adjoining developments. The proposed dormer windows are appropriately proportioned and positioned to maintain the original roof form and architectural character of the

dwelling and does not detract from the significance of the heritage item, surrounding heritage items or the streetscape.

### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

The proposal has adequately demonstrated that the objectives of the development standard has been satisfied, as the dormer windows complement the style and character of the dwelling and does not result in excessive building bulk. The proposal matches the adjoining semi-detached dwelling when viewed from Bondi Road and contributes to the character of the streetscape and conservation area.

The proposal does not visually dominate the existing roof when viewed from the public domain as the dormer windows are set down from the ridgeline and setback from the side boundaries. The proposal satisfies the objective to preserve the environmental amenity of adjoining properties as additional overshadowing falls across the roof of adjoining properties and does not impact the amenity of habitable rooms or private open space.

Some additional overshadowing will fall across Bondi Road to parts of footpath adjacent to Waverley Park at 9am and 3pm on 21 June. The extent of additional shadowing has negligible impact the usability of public open space particularly seating areas and the playing fields and is acceptable.

The objectives of the R3 Medium Density Residential zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposal is consistent with the objectives of the R3 Medium Density Residential zone as the retention of the semi-detached dwelling contributes to housing types within the locality and meets the housing needs of residents.

### Conclusion

For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R2 Low Density Residential zone.

### Clause 4.6 Exceptions to Development Standards - FSR

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.82:1. The proposed development has a FSR of 1.06:1, exceeding the standard by 63.11m<sup>2</sup> equating to a 29.5% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The objectives of the development standard are achieved notwithstanding the non-compliance as the proposed floor space area and building height are compatible with the bulk and scale of contributory buildings in the vicinity of the site and complements the character of the conservation area.
  - (ii) The proposed dormer windows do not result in any additional environmental amenity impacts on surrounding properties, particularly visual bulk, loss of privacy, overshadowing or loss of views.
  - (iii) The proposal achieves the objectives of the R3 Low Density Residential zone as it contributes to housing types to address demand of residents.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The proposal converts existing roof space to enhance the amenity of occupants, is consistent with attic conversions at adjoining properties and does not result in unreasonable bulk or scale when viewed from the streetscape.

(ii) The design of the dormer windows is compliant with controls under the Waverley DCP and has no detrimental impacts on the character of the existing dwelling or conservation area.

### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

### Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The justification submitted adequately demonstrates that the proposal achieves the objectives of the development standard, notwithstanding the variation sought, as the proposed building bulk, scale and architectural style of the attic addition is cohesive with immediately surrounding developments, does not exceed the height of the existing dwelling and is compatible with the desired future character of the conservation area. The proposal is predominantly contained within the existing roof form and will not

result in any additional overshadowing or loss of privacy impacts on adjoining properties and will preserve the amenity of surrounding properties.

### <u>Does the written request adequately address those issues at clause 4.6(3)(b)?</u>

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the proposal responds appropriately to the character of surrounding developments and is compatible with the existing streetscape and conservation area. The proposed dormer windows complement the architectural character of the heritage item and surrounding heritage items, and do not result in unreasonable visual bulk or additional amenity impacts on adjoining properties.

### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

- (b) to provide an appropriate correlation between maximum building heights and density controls,
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

The proposal has adequately demonstrated that objectives of the development standard have been achieved notwithstanding the non-compliance, particularly as the attic addition does not result in excessive building bulk or scale, does not exceed the existing height of the dwelling and will not have any additional amenity impacts on adjoining properties.

The objectives of the R3 Medium Density Residential zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposal is consistent with the objectives of the R3 Medium Density Residential zone as the retention of the semi-detached dwelling contributes to the variety of housing types within the locality to meet the housing needs of residents.

### Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R3 Medium Density Residential zone.

### 2.1.3 Waverley Development Control Plan 2012 (Waverley DCP 2012) - Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 - Part B General Provisions Compliance Table

<b>Development Control</b>	Compliance	Comment
1. Waste	Yes	Satisfactory.
Ecologically Sustainable     Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory.
9. Heritage	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory.
14. Excavation	Yes	Satisfactory.

Table 3: Waverley DCP 2012 - Part C2 Low Density Residential Development Compliance Table

Development Control	Compliance	Comment		
2.0 General Objectives	2.0 General Objectives			
<ul> <li>Ensure scale of lower density residential development is appropriate for lot size and surrounding developments</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the DCP.		
Development does not detract from the amenity of other dwellings or views from the public domain				

Development Control	Compliance	Comment
Ecologically sustainable development		
Sympathetic bulk, scale and character with desired future character of the area		
High design quality		
2.1 Height		
<ul> <li>Pitched roof dwelling house</li> <li>Maximum external wall height of 7m</li> </ul>	Yes	The existing dwelling has a wall height of 7m fronting Bondi Road and 7m at the rear of the dwelling and is compliant with the maximum wall height under the DCP. The proposed attic addition comprising of dormer windows and a rear roof extension that are set in from the side boundaries does not change the primary wall height of the
		dwelling and is acceptable.
2.3 Streetscape and visual im	<del>-</del>	
New development to be compatible with streetscape context	Yes	The proposed front dormer windows are consistent with the style and scale of dormer windows of surrounding properties and is
<ul> <li>Replacement windows to complement the style and proportions of existing dwelling</li> </ul>	Yes	compatible with the architectural character of the row of terraces. The proposal will not detract from the character of the streetscape or significance of the conservation area and is acceptable.
Significant landscaping to be maintained.	Yes	The proposed swimming pool will occupy an area of the rear yard that is currently paved and will not result in any change to existing or approved landscaping for the site.
2.5 Visual and acoustic privac	у	
Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design	Yes	The proposed north facing window openings are not orientated towards adjoining windows and will not result in direct overlooking of adjoining private open spaces, as views of private open spaces are obscured by existing built forms to the rear of the subject site and adjoining properties.
2.6 Solar access		
Minimum of three hours of sunlight to living areas and principal open space areas on 21 June	Yes	The proposal does not result in any change to solar access to habitable window openings or private open space of the subject site or adjoining properties.
Minimum of three hours of sunlight maintained to	Yes	The proposal does not result in unreasonable overshadowing of adjoining properties as

De	velopment Control	Compliance	Comment
•	at least 50% of principal open space areas of adjoining properties on 21 June.  Avoid unreasonably overshadowing of solar collectors (including habitable windows).	Yes	additional shadows will fall across the existing roof of the adjoining property to the west at 9am and the property to the east at 3pm. The extent of overshadowing will not adversely reduce direct sunlight to adjoining solar panels between 9am and 3pm on 21 June and is acceptable.
2.7	' Views		
•	Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.	Yes	No existing views from the public domain or adjoining properties will be impacted by the proposal.
2.9	Landscaping and open spa	ce	
•	Overall open space: 40% of site area  Overall landscaped area:	acceptable on merit	No change is proposed to the total area of open space for the site, measuring 75.6m <sup>2</sup> (28% of the site area) and landscaped area of 35.1m <sup>2</sup> (13% of the site area).
	15% of site area	Yes	The principal area of private open space measures
•	Minimum area of 25m <sup>2</sup> for private open space	Yes	33m <sup>2</sup> and is compliant with the minimum required area of 25m <sup>2</sup> .
•	Front open space: 50% of front building setback area	Yes	No change is proposed. 100% of the front setback comprised open space.
•	Front landscaped area: 50% of front open space	No change	Landscaping within the front setback occupies 85% of the front open space (19.1m <sup>2</sup> ).
•	provided  Outdoor clothes drying area to be provided	Not shown	No change is proposed. The rear private open space comprises sufficient space to accommodate clothes drying to meet the needs of occupants.
2.10 Swimming pools and spa		pools	
•	Located in the rear of property  Pool decks on side boundaries must consider visual privacy	Yes	The new swimming pool is located in the rear yard and is setback from the eastern side boundary by a 300mm wide pool capping and a 600mm wide landscaped area. The pool deck adjacent to the existing verandah is setback 600mm from the eastern side boundary. The retention of the existing landscape area adjacent to the eastern side boundary and the solid boundary wall will mitigate amenity impacts on the adjoining property.

Development Control	Compliance	Comment
2.11 Dormer windows		
<ul> <li>Minimum 0.3m below main roof ridge</li> <li>If dwelling is a pair or</li> </ul>	Yes No –	The front dormer windows are set down 900mm from the existing roof ridge and the rear dormer window is set down 300mm from the roof ridge.
part of a group of like dwellings, dormer windows are to match the group and no greater than 25% of the width of the roof  Skillion dormer permitted at the rear of the roof,	acceptable on merit Yes	The front roof has a width of 5.7m and the two dormer windows have a total width of 2m, which is greater than 25% of the width of the roof. Notwithstanding the variation, the proposed dormer windows are appropriately proportioned and evenly spaced on the roof and match the exiting dormer windows of the adjoining semi-detached dwelling at No. 100 Bondi Road.
provided ridge line is maintained		The rear dormer comprises a skillion roof that is set down 300mm from the existing roof ridge and is an appropriate built form for rear dormers in the locality. The proposal does not dominate the existing roof form and is acceptable.
2.13 Semi-detached dwellings	and terrace styl	e development
<ul> <li>Additions to match the style of the original semi-detached dwelling</li> </ul>	Yes	The front dormer windows are set down from the existing roof ridge and do not detract from the roof slope. The style and positioning of the dormer windows match the existing dormer windows at
Existing roof form     maintained forward of     principal ridgeline	Yes	No. 100 Bondi Road and is cohesive with the architectural character of the pair of dwellings.
Use of roof as an attic permitted provided	Yes	
<ul> <li>2.13.3 - Material finishes and detail for semi-detached dwellings</li> <li>Finishes and detailing are to be cohesive with the existing dwelling</li> </ul>	Yes	The proposed front dormer windows match the style of traditional dormer windows and the materials and finishes for the attic addition are consistent with the existing materials and finishes of the dwelling and the adjoining semi-detached dwelling.
Historic features of the roofscape are to be incorporated into the addition	Yes	The proposal is cohesive with the character of dwellings within the streetscape and is acceptable.
Dormer roof forms are to match the style of the original dwelling	Yes	
Upper wall finishes to reflect the style and character of the original building.	Yes	

<b>Development Control</b>	Compliance	Comment
2.13.5- Streetscape and visual impact controls for terraces		The attic level addition is consistent with surrounding terrace style developments. The proposed dormer windows are appropriately
Additional storey reflects character of terrace	Yes	proportioned, are set down below the existing ridge and do not dominate the roof form.
Extensions no higher than the existing ridge	Yes	
Attic conversions maintain existing roof envelope with only dormers	Yes	
2.14.3 Development in Heritage Conservation areas		The proposed dormer windows do not dominate the existing roof form and is consistent with the
Roof pitch and modulation to reflect the form of the area	Yes	style of attic additions in the conservation area. The materials and finishes match the existing dwelling and is consistent with the style of the adjoining semi-detached dwelling at No. 100
Finishes and proportions to match the traditional construction in the area	Yes	Bondi Road.  The proposed window proportions are consistent with front and rear dormer windows in the
Window proportions to match the area	Yes	surrounding area and will not result in any loss of privacy as direct views of adjoining private open
Overlooking to be mitigated	Yes	spaces are obscured by the built form of the existing dwelling and adjoining properties.

# 2.1.4 Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

# 2.1.5 Suitability of the Site for the Development

The site is considered suitable for the proposal.

# 2.1.6 Any Submissions

The application was notified for 21 days between 1 and 22 April 2022, and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of two unique submissions were received from the following properties:

- 100 Bondi Road, Bondi Junction (in support)
- 104 Bondi Road, Bondi Junction

The following issues raised in the submissions are summarised and discussed below.

Issue: Impact on structural stability of immediately adjoining properties.

**Response:** Conditions relating to excavation and construction works and requirements for dilapidation reports to ensure the proposal does not result in any adverse environmental and structural impacts on adjoining properties has been included in the recommendation.

# 2.1.7 Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

#### REFERRALS

The following internal and external referral comments were sought:

# 3.1 <u>Heritage Advisor</u>

The proposal reviewed by Council's Heritage Advisor, who raised no objection to the scope of works as it is consistent with the style and character of immediately surrounding developments and will not detract from the significance of the heritage item, surrounding heritage items and the conservation area.

# 3.2 Stormwater

The proposal was reviewed by Council's Stormwater Engineer who raised no objection to the proposal subject to conditions that have been included in the recommendation.

# 3.3 Tree Management

The proposal was reviewed by Council's Tree Management Officer who has identified that the site does not contain any significant or protected trees what will be affected by the proposal. As such, no objection is raised to the proposal.

#### 4. CONCLUSION

The development application seeks consent for alterations and additions to the existing heritage listed dwelling, including an attic addition comprising two front dormer windows and one rear roof extension, and a new swimming pool in the rear yard at the site known as 102 Bondi Road, Bondi Junction.

The principal issues arising from the assessment of the application are as follows:

- Building height; and
- FSR

The assessment finds these issues acceptable, as the proposed architectural style and bulk of the attic additions do not exceed the existing height of the dwelling and are complementary to the character of the heritage listed dwelling and surrounding developments. The submitted Clause 4.6 written justifications seeking variation to the height of buildings and FSR development standards have adequately demonstrated that the proposal satisfies the objectives of the land use zone and the

development standards and preserves the environmental amenity of surrounding properties. The proposal complements the existing streetscape and the desired future character of the area and does not detract from the significance of the heritage item, surrounding heritage items or the conservation area.

A total number of two submissions were received including one submission in support of the proposal. The issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

There are no declared conflicts of interest for this application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

# Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 20 September 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, K Lucas, B McNamara and E Finnegan* 

#### 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
P. Darg	
Peggy Wong	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (Area 3 – Bondi Beach, Bondi Junction, Rose Bay) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 20 September 2022	Date: 12 October 2022

#### Reason for WLPP referral:

1. Departure from any development standard in an EPI by more than 10%

# APPENDIX A – CONDITIONS OF CONSENT

# A. APPROVED DEVELOPMENT

## 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Alexander Jankov Design Studio including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
Sheet No. 01, Rev A	Ground Floor Plan	19.09.2022	19.09.2022
Sheet No. 02, Rev A	First Floor Plan	19.09.2022	19.09.2022
Sheet No. 03, Rev A	Attic Plan	19.09.2022	19.09.2022
Sheet No. 04, Rev A	Roof Plan	19.09.2022	19.09.2022
Sheet No. 05, Rev A	Elevations	19.09.2022	19.09.2022
Sheet No. 06, Rev A	East Elevation	19.09.2022	19.09.2022
Sheet No. 07, Rev A	West Elevation	19.09.2022	19.09.2022
Sheet No. 08, Rev A	Section A-A	19.09.2022	19.09.2022

- (b) BASIX Certificate
- (c) Schedule of materials and finishes, Sheet No. 09 dated November 2021, prepared by Alexander Jankov Design Studio received by Council on 23 March 2022
- (d) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 23 March 2022

Except where amended by the following conditions of consent.

# B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

## 2. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

(a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;

- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### 3. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6, before any work commences.

# **CONTRIBUTIONS, FEES & BONDS**

#### 4. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:
    - "Waverley Council Cost Summary Report"; or,
  - (ii) Where the total development cost is \$500,000 or more: "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### 5. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$3,800 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works

and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### 6. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

### **CONSTRUCTION MATTERS**

#### 7. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

# 8. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

#### 9. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## 10. ENGINEERING CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

## 11. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades or chimneys are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

#### STORMWATER & FLOODING

#### 12. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

The concept stormwater management plan prepared by Alexander Jankov Design Studio Pty Ltd, Drawing No. 9, dated November 2021, is considered <u>satisfactory</u>. The stormwater management to comply with the current Waverley Council Water Management Technical Manual, Development Control Plan (DCP) and the following: -

- (a) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- (b) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- (c) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (d) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

#### Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure
  any additional damage or unauthorised works within the Council property, not conditioned
  above. Council will reserve the right to withhold the cost of restoring the damaged assets
  from the security deposit should the applicant fail to restore the defects to the satisfaction
  of Council.
- Council's contact for infrastructure assessment: E-mail: <a href="mailto:assets@waverley.nsw.gov.au">assets@waverley.nsw.gov.au</a> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The

expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

#### **ENERGY EFFICIENCY & SUSTAINABILITY**

#### 13. BASIX

All requirements of the BASIX Certificate are to be shown on the Construction Certificate plans and documentation.

# **WASTE**

#### 14. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

# TRAFFIC MANAGEMENT

## 15. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development applications/post determination/development applications - conditions of consent

# 16. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

# C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

## PRIOR TO ANY WORKS

#### 17. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

## **DEMOLITION & EXCAVATION**

#### 18. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### 19. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

#### 20. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

#### 21. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

## **CONSTRUCTION MATTERS**

#### 22. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

# 23. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### 24. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

#### 25. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

#### 26. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

#### 27. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

# D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### 28. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### 29. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### 30. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

# 31. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<a href="http://www.swimmingpoolregister.gov.au">http://www.swimmingpoolregister.gov.au</a>);
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

# E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

Please read your conditions carefully.

- Information to be submitted to Council should be either via email to <a href="mailto:info@waverley.nsw.gov.au">info@waverley.nsw.gov.au</a> or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### AD2. SYDNEY WATER REQUIREMENTS

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

#### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### AD5. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

#### AD6. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

## AD7. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

## AD8. RAINWATER HARVESTING AND REUSE

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

# **RECEIVED** PLANS AMENDED **Waverley Council** Application No: DA-104/2022 Date Received: 19/09/2022 \ LOT A DP 413062 $\triangleleft$ 0 LOT B DP 413062 260.6m2 CONCRETE COURTYARD PIT 95.50 Z 0 മ LOT 28 DP 1222908



FOOTPATH AND ROADWA ALL SERVICES TO BE LOCATED PRIOR TO COMMENCEMENT OF EXCAVATION WORKS CONTACT 'DIAL BEFORE YOU DIG' www 1100 com au

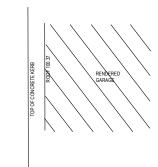
# SIGNAGE FOR EXCAVATION

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**COUNCIL PROPERTY** 

**OBJECTIVES** 

RESPONSIBILITY

COUNCIL PROPERTY IS NOT TO BE USED FOR CONSTRUCTION OR STORAGE ACTIVITIES UNLESS PRIOR WRITTEN APPROVAL HAS BEEN OBTAINED. COUNCIL PROPERTY IS NOT TO BE DAMAGED AND IS TO BE KEPT IN A CLEAN, SAFE AND FUNCTIONAL CONDITION BEFORE DURING AND ON COMPLETION OF THE WORKS

TO ENSURE THAT NECESSARY MEASURES ARE EMPLOYED ON THE SITE THAT PROTECT BOTH THE NEIGHBOURHOOD AMENITY AND THE SURROUNDING ENVIRONMENT AND MINIMSE SITE DEGRADATION. THE RECYCLING OF MATERIALS WILL REDUCE TIPPING COSTS.

THE CONTRACTOR WILL BE RESPONSIBLE AND LIABLE FOR ALL WORKS CARRIED OUT ON THE SITE. THIS INCLUDES ASSUMING RESPONSIBLITY FOR THE ACTIONS OF ALL THE SUBCONTRACTORS AS WELL AS ADVISING THEM OF COUNCIL'S REQUIREMENTS WHEN CARRYING OUT THE WORK.

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO HAVE VIEWED ALL APPROVED PLANS PRIOR TO THE COMMENCEMENT OF DEMOLITION, EARTHWORKS AND CONSTRUCTION WORKS.

SHOULD ANY COUNCIL PROPERTY INCLUDING FOOTPATHS BE INADVERTENTLY DAMAGED AS A RESULT OF THE WORKS, COUNCIL MUST BE NOTIFIED IMMEDIATELY.

#### OPERATING HOURS

TO MINIMISE UNDUE LOSS OF AMENITY, HOURS OF WORK FOR DEMOLITION / EXCAVATION / CONSTRUCTION ARE TO BE RESTRICTED ABSOLUTELY TO THE HOURS INDICATED IN THE CONDITIONS OF CONSENT. NO PLANT OF MACHINERY MAY MOVE ON OR OFF THE SITE OUTSIDE OF RESTRICTED HOURS OF OPERATION.

LARGE EXCAVATION VEHICLES WAITING TO COMMENCE WORK MUST BE REMOTELY LOCATED FROM THE SITE SO AS NOT TO AFFECT THE LOCAL AMENITY. THE CONTRACTOR IS REPONSIBLE FOR ANY CONTRAVENTION BY SUBCONTRACTORS OF THESE CONDITIONS.

#### **ACCESS POINT**

TO LIMIT DISTURBANCE TO THE SITE AND TRACKING OF MATERIAL

TO LIMIT DISTURBANCE TO THE SITE AND TRACKING OF MATERIAL ONTO THE STREET, ALL VEHICLES AND PLANT EQUIPMENT WILL USE A SINGLE ENTRY / EXIT POINT.

A SEDIMENT CONTROL DEVICE IS TO BE PLACED AT THE SITE ACCESS POINT TO PREVENT SEDIMENT DEPOSITION ON ADJOINING ROADS.

THE CONTRACTOR IS RESPONSIBLE TO REMOVE ANY MATERIAL DEPOSITED OFFSITE AS A RESULT OF SPILLAGE OR VEHICLE MOVEMENT. RESTORE AREA TO PREVIOUS STANDARD OR EQUAL. FORM VEHICLE CROSSING FROM 150x50 HARDWOOD PLANKS, CHAMFERED AT ENDS. LAY OVER 150mm ROAD BASE. TIE WITH HOOP IRON STRAPS AT 600 C/C.

#### HAZARDOUS MATERIALS

ASBESTOS CEMENT SHEETING IF ENCOUNTERED IS TO BE WRAPPED TIGHTLY IN PLASTIC TO COMPLY WITH THE AUSTRALIAN STANDARD AND WORK COVER AUTHORITIES REQUIREMENTS AND TAKEN TO AN APPROVED LANDFILL TIP.

#### **BUILDING MATERIAL STOCKPILE**

AT NO TIME MAY BUILDING MATERIALS OR STOCKPILES BE SITUATED ON A PUBLIC RESERVE, ROAD GUTTER OR FOOTPATH, THIS INCLUDES BUILDING OR DEMOLITION MATERIAL, WASTE CONTAINERS, PROTABLE SHEDS, PORTABLE TO LETS AND THE LIKE. ALL BUILDING MATERAILS ARE TO BE STORED WITHIN THE SEDIMENT FENCE ENVELOPE OF THE SUBJECT SITE. ALL LOOSE MATERIAL TO BE COVERED WITH TARPAULINS.
A SUFFICIENT AREA MUST BE ALLOCATED WITHIN THE SITE FOR SUCH STORAGE OF BUILDING MATERIALS. DEMOLITION WASTE.

SUCH STORAGE OF BUILDING MATERIALS, DEMOLITION WASTE, WASTE CONTAINERS ETC. AS REQUIRED. THE FEASIBILITY OF THE NOMINATED SITE FOR THE STOCKPILE MUST BE CONFIRMED PRIOR TO COMMENCEMENT

# DUST CONTROL

APPROPRIATE METHODS ARE TO BE USED TO PREVENT WIND BLOWN DUST CREATING AN UNACCEPTABLE HAZARD OR NUISANCE ON THE SITE OR ADJOINING PROPERTIES. WHERE DUST IS CREATED AS A RESULT OF THE WORKS OR SOIL EXPOSURE, THE BARE SOIL AREAS ARE TO BE WATERED DURING THE DAY AND AT THE END OF DAY TO LAY THE DUST. AVOID EARTH MOVING ACTIVITIES WHEN THE WIND IS STRONG ENOUGH TO RAISE VISIBLE DUST.

# CONTAINMENT OF SITE WASTE

BUILDING MATERIALS MUST NOT BE BURIED ON SITE. DEMOLITION WASTE RESULTING FROM THE WORKS IS NOT TO BE STORED ON FOOTPATHS, STREET GUTTERS OR ROADWAYS ETC. ALL WASTE TO BE PLACED IN RUBBISH SKIPS OR CONTAINERS FOR COLLECTION.

#### VEHICLE MOVEMENTS

ALL VEHICLES VISITING THE SITE ARE TO COMPLY WITH THE PARKING ALL VEHICLES VISITING THE SITE ARE TO COMPLY WITH THE PARKING REGULATIONS IN THE AREA ALL VEHICLES ARE TO BE WASHED DOWN BEFORE LEAVING THE SITE. ALL POLLUTED WATERS ARE TO REMAIN ON SITE FOR TREATMENT. ALL TRUCKS AND UTILITIES MUST COVER THEIR LOADS. NO VEHICLE VISITING THE SITE IS TO IMPEDE LOCAL AREA TRAFFIC FLOWS. A LICENSED PERSON WILL DIRECT TRAFFIC AND PEDESTRIANS WHEN TRUCKS ENTER THE SITE

EDGE OF THE POOL & OUTDOOR SPA.

SWIMMING POOL TO BE OUTDOORS AND HAVE A CAPACITY OF NO GREATER THAN 9KI SWIMMING POOL TO HAVE A POOL COVER. POOL PUMP TIMER TO BE INSTALLED. GAS HEATING SYSTEM FOR THE POOL.

LIGHTING

THE APPLICANT MUST ENSURE A MINIMUM OF 40% OF NEW OR ALTERED LIGHT. FIXTURES ARE FITTED WITH FLUORESCENT, COMPACT FLUORESCENT, OR LIGHT-EMITTING-DIODE (LED) LAMPS. FIXTURES

THE APPLICANT MUST ENSURE NEW OR ALTERED SHOWERHEADS HAVE A FLOW RATE NO GREATER THAN 9 LITRES PER MINUTE OR A 3 STAR WATER RATING. THE APPLICANT MUST ENSURE NEW OR ALTERED TOILETS HAVE A FLOW RATE NO

GREATER THAN 4 LITRES PER AVERAGE FLUSH OR A MINIMUM 3 STAR WATER RATING. THE APPLICANT MUST ENSURE NEW OR ALTERED TAPS HAVE A FLOW RATE NO GREATER THAN 9 LITRES PER MINLITE OR MINIMUM 3 STAR WATER RATING

### INSULATION REQUIREMENTS:

EXTERNAL WALL: FRAMED (WEATHERBOARD, FIBRO, METAL CLAD) R1.30 OR R1.70 INCLUDING CONSTRUCTION

#### RAKED CEILING, PITCHED ROOF

CEILING INSULATION: R1.00 (UP), ROOF: FOIL BACKED BLANKET (55 mm) ROOF COLOUR: DARK (LIGHT ABSORPTANCE < 0.475)

#### GLAZING REQUIREMENTS:

W1 & 2 TIMBER OR uPVC SINGLE CLEAR, (U-VALUE: 5.71, SHGC: 0.66) W3 STANDARD ALLIMINIUM SINGLE CLEAR (U-VALUE: 7.63, SHGC: 0.75).

#### PROPOSED FLOOR SPACE CALCULATION PREVIOUSLY APPROVED FLOOR SPACE 229.6 FLOOR SPACE FROM ATTIC CONVERSION 47.2 PROPOSED FLOOR SPACE 276.8 TOTAL SITE AREA 260.6 PROPOSED FSR 1.06:1 OPEN SPACE 93.6 (36%) EXISTING LANDSCAPED AREA 31.2 (12%) PROPOSED LANDSCAPED AREA 31.2 (12%) PRIVATE OPEN SPACE

**CLIMATIC SITE ANALYSIS** 

REFER TO FIGURES ON FLOOR PLANS FOR DETAILED GFA

# **EROSION & SEDIMENT CONTROL DETAILS**

**AMENDMENTS** THE BUILDING / MANUFACTURER SHALL CHECK AND VERIFY ALL DIMENSIONS, RL GROUNGLINES AND CONSTRUCTION METHODS PRIOR TO COMMENCEM OF MODIFY. PREFERNCES OF DIMENSIONED MEASU TAKEN OVER SCALED MEASUREMENTS THESE DRAWINGS HAVE BEEN PREPARED BY A. JANKOV AND REMAIN THE PROPERTY OF THE ABOVE NAMED PAR THESE DRAWINGS ARE NOT TO BE USED IN ANY WAY WITHOUT THE PERMISSION OF A. JANKOV AND ARE SHIRLED TO CONVENED IT JANKS Page 483 bf 618

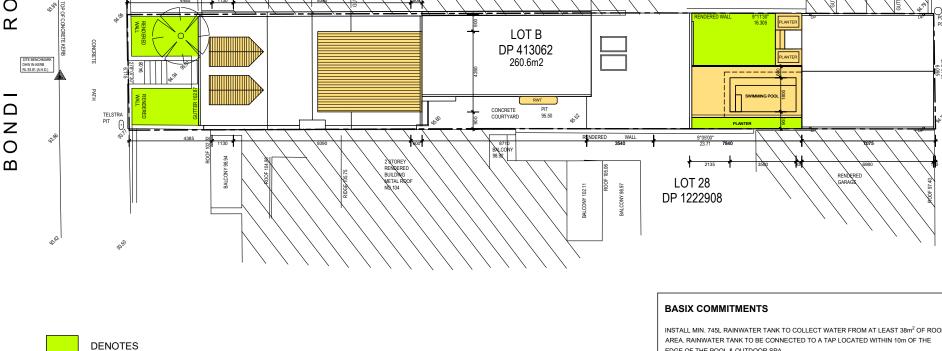
SPRUCE GROVE, MENAI HONE: 0421 815 127

w.ajdstudio.com.au

DRAWING. SCALE :200 @ A3

PROJECT: SHEET No 00 ADDRESS: DATE: NOV 2021

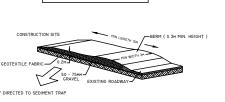




LANDSCAPED AREAS

SITE ANALYSIS / SITE MANAGEMENT PLAN /

**EROSION & SEDIMENT CONTROL PLAN** 





NTS

-STAKE 7777

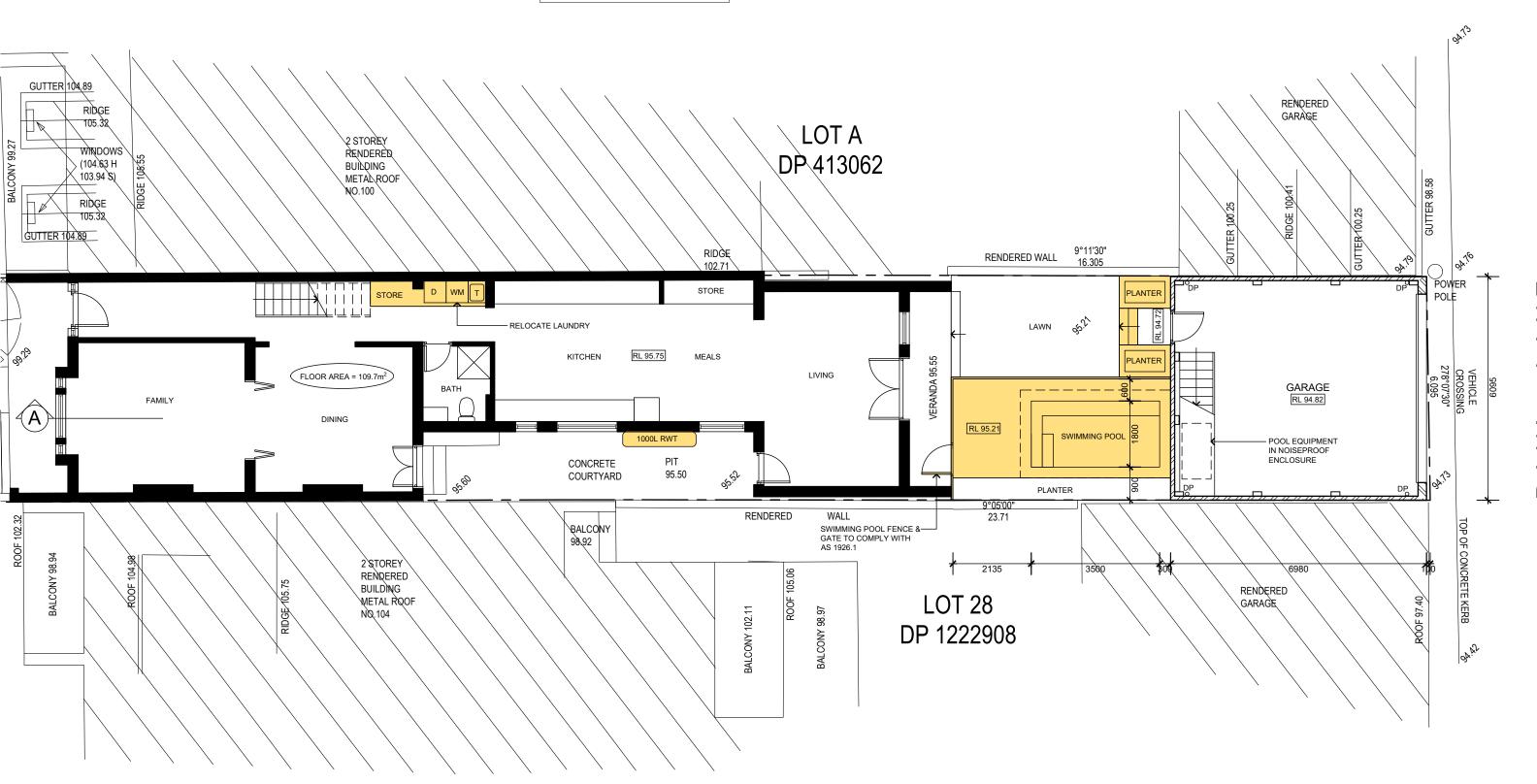
CONSTRUCTION NOTES FABRICATE A SEDIMENT BARRIER FROM GEOTEXTILE MATERIAL

2. SUPPORT GEOTILE WITH MESH TIED TO POSTS AT 1m CTS.
3. DO NOT COVER INLET WITH GEOTEXTILE

RECEIVED
Waverley Council

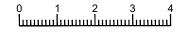
Application No: DA-104/2022

**Date Received: 19/09/2022** 



# **GROUND FLOOR PLAN**

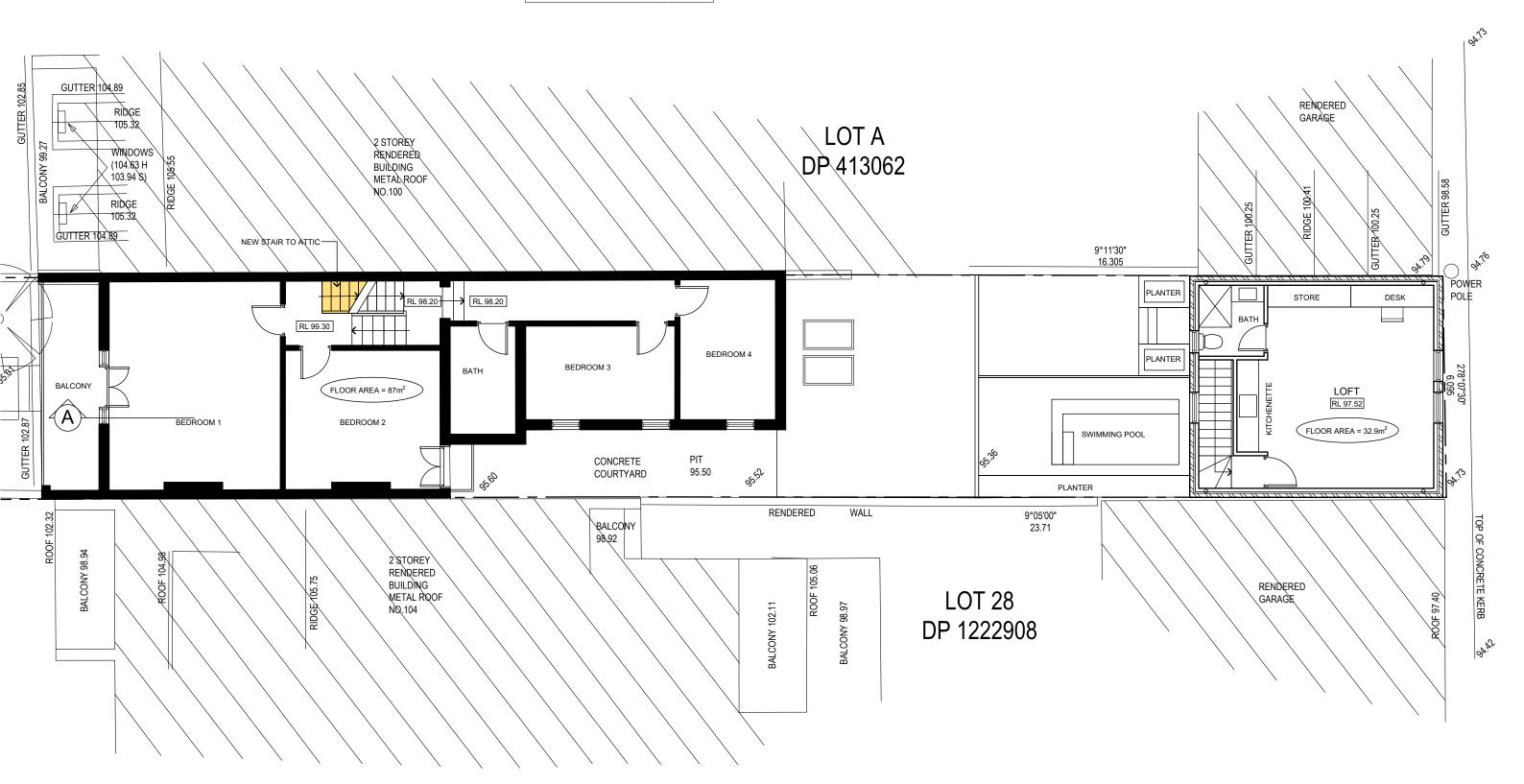




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Waverley Council

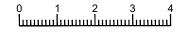
Application No: DA-104/2022

Date Received: 19/09/2022



# FIRST FLOOR PLAN

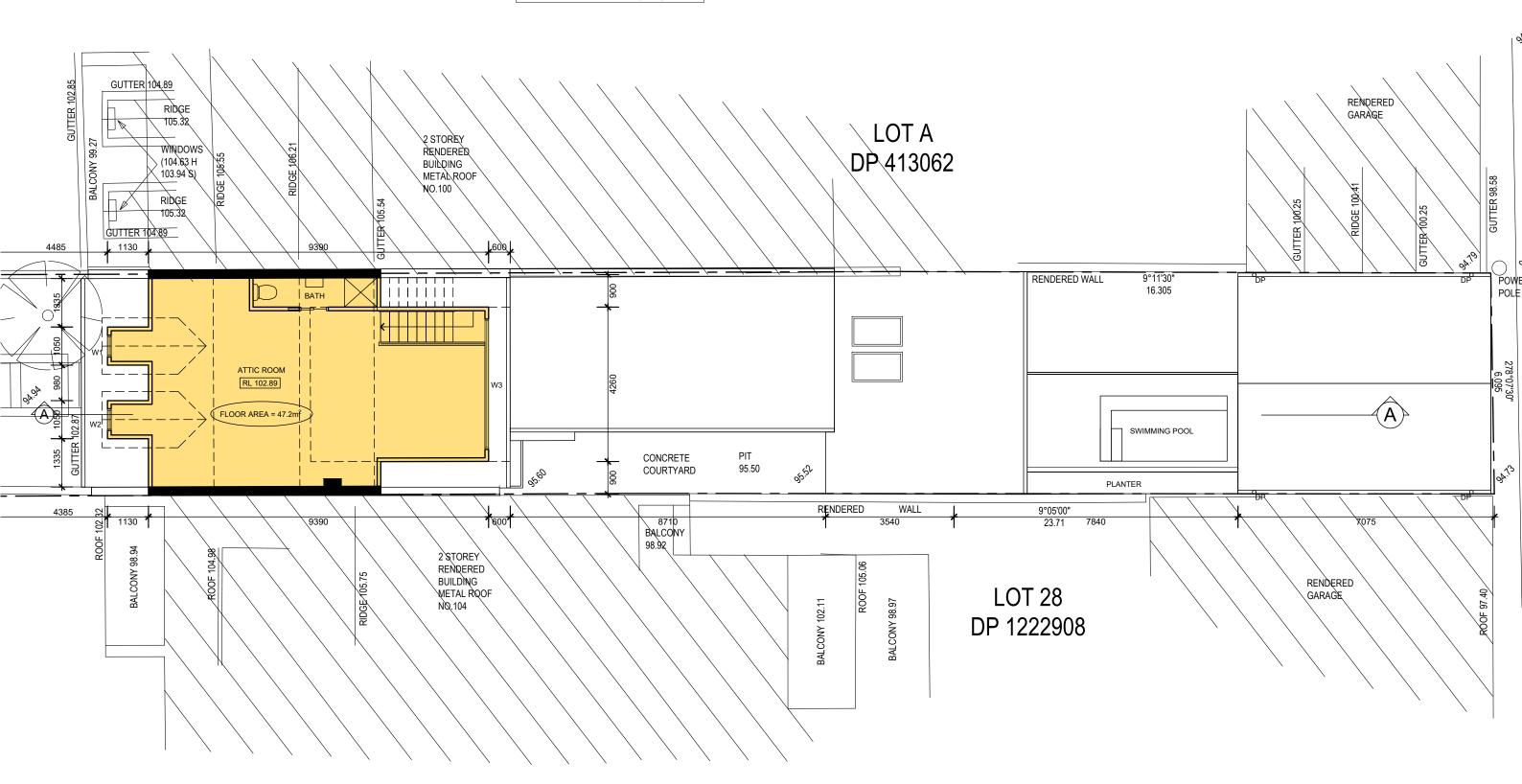




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Waverley Council

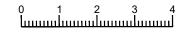
Application No: DA-104/2022

Date Received: 19/09/2022



# ATTIC PLAN

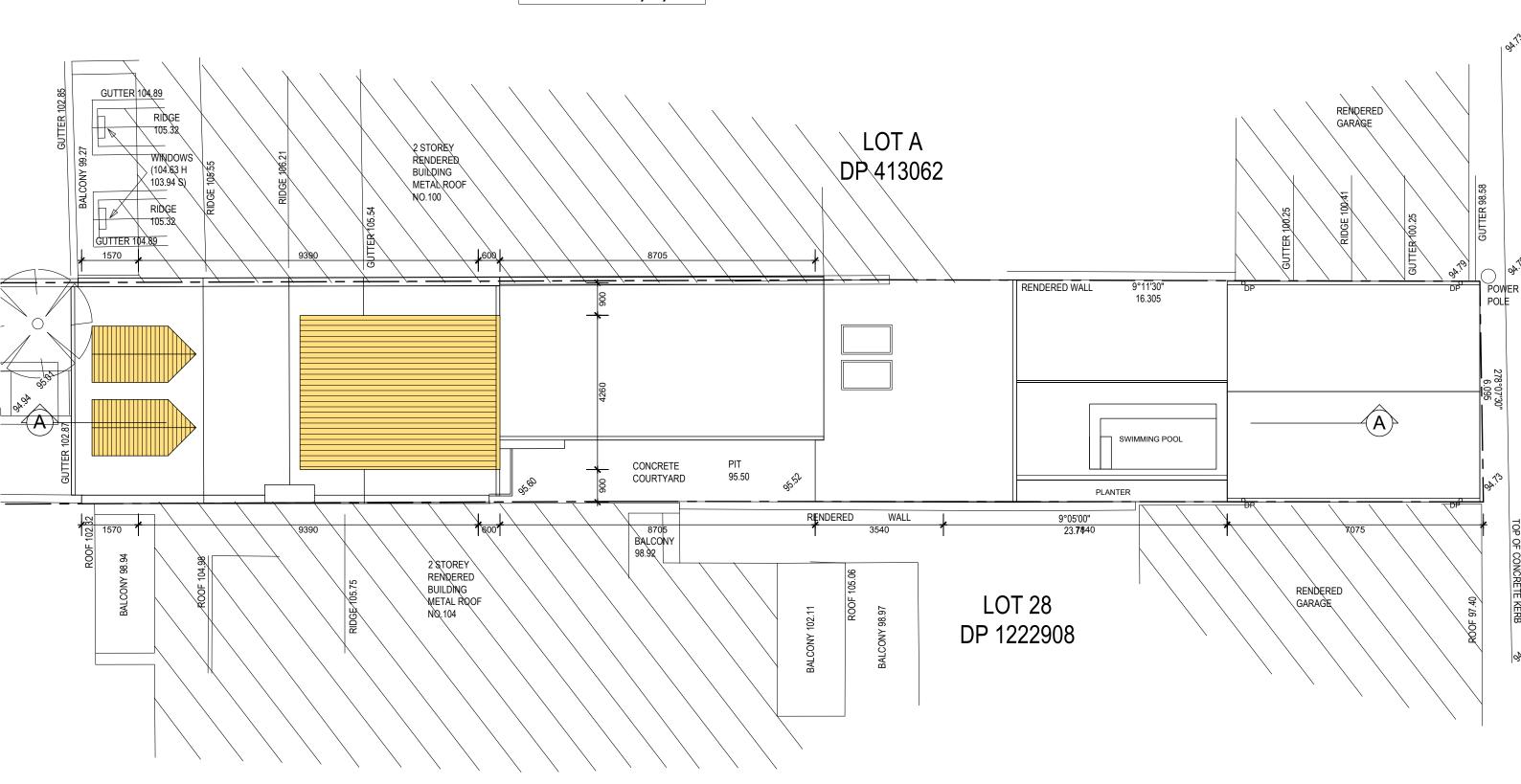




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Waverley Council

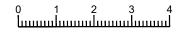
Application No: DA-104/2022

Date Received: 19/09/2022



# **ROOF PLAN**

AMENDMENTS  19.09.22 A ADDITIONAL INFORMATION	THE WORK IS TO BE COMPLETED WITH THE BUILDING CODE OF AUSTRALA, BAAC CODES AND RELEVANT OF AUST. THE BUILDING AMMERICATION SHALL CHECK AND VERFY ALL DISENSECON, BLEDGOLIKELINGS AND CONSTRUCTION AND THE OFFICE OF COMMISSIONED OF THE OWNER OF THE OWNER OF THE OWNER OWNER OWNERS OF THE OWNER OWNER OWNER OWNER OWNER THAT OWNER OWNER OWNER OWNER OWNER THAT OWNER OWNER OWNER OWNER OWNER THAT OWNER OWNER OWNER OWNER THAT OWNER OWNER OWNER OWNER THAT OWNER OWNER OWNER OWNER OWNER THAT OWNER OWNE	ALEXANDER JANKOV DESIGN STUDIO 6 SPRUCE GROVE, MENAI PHONE: 0421 815 127		PROJECT: ALTERATIONS & ADDITIONS NEW SWIMMING POOL	SHEET No: 04	
Page 487 of 618	THESE CRAININGS HAVE SEEN PERPARED BY A JANSON AND RESAME THE PROPERTY OF THE AGYS MANIES PART. THESE CRAININGS ARE NOT TO SE USED IN ANY TWAY SELECT COMPRISED AND ASSESS OF THE SELECT OF THE PROPERTY OF TH	EMAIL: info@ajdstudio.com.au www.ajdstudio.com.au	SCALE: 1:100 @ A3	ADDRESS: 102 BONDI ROAD BONDI JUNCTION	DATE: NOV. 2021	

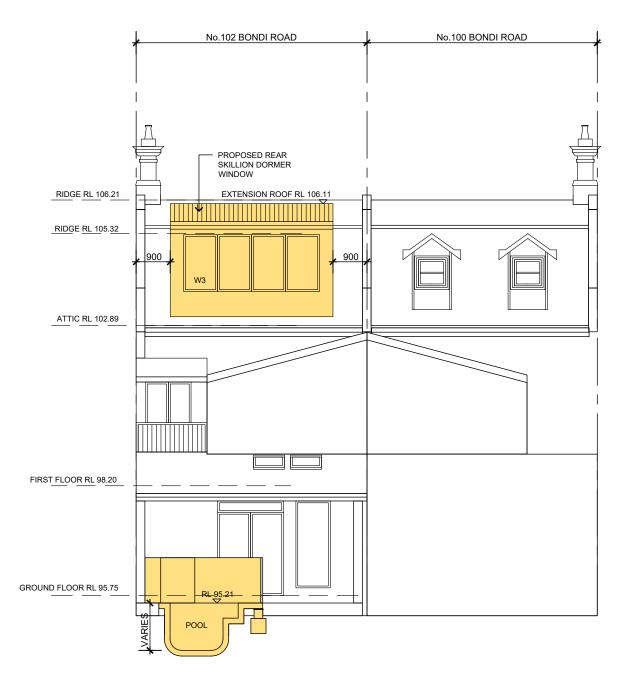


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Waverley Council

Application No: DA-104/2022

Date Received: 19/09/2022





**SOUTH ELEVATION** 

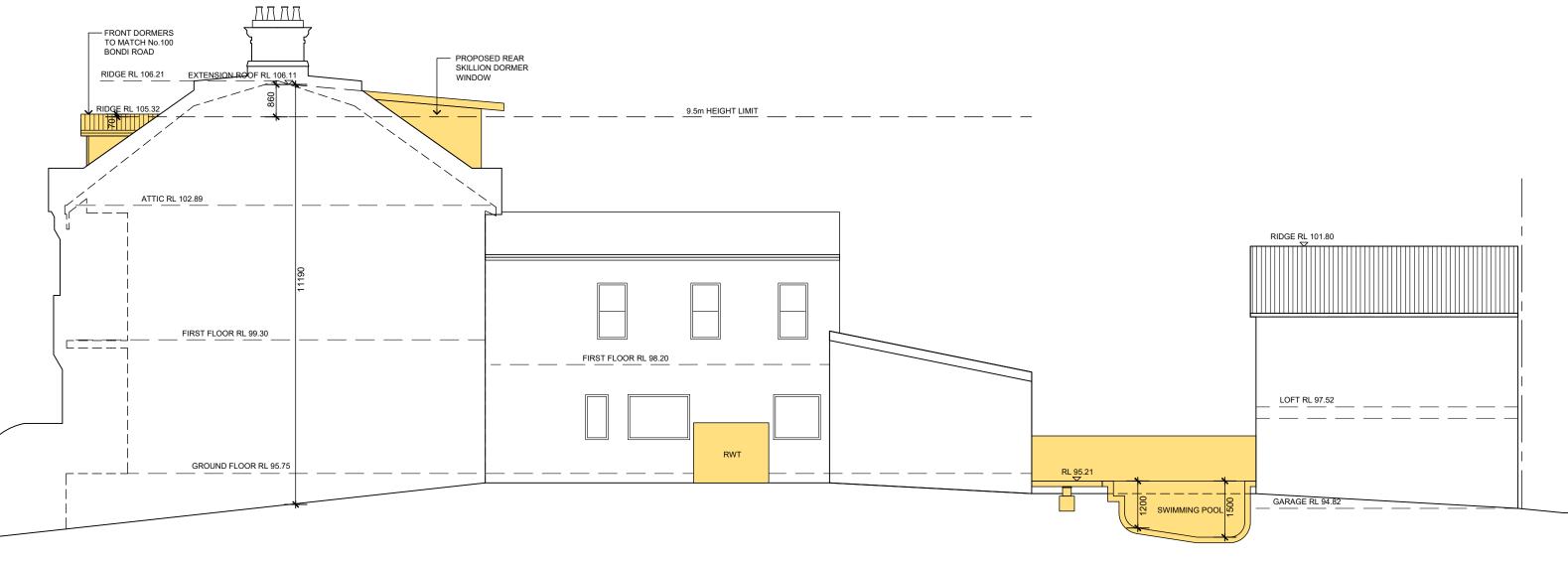
**NORTH ELEVATION** 



RECEIVED
Waverley Council

Application No: DA-104/2022

Date Received: 19/09/2022

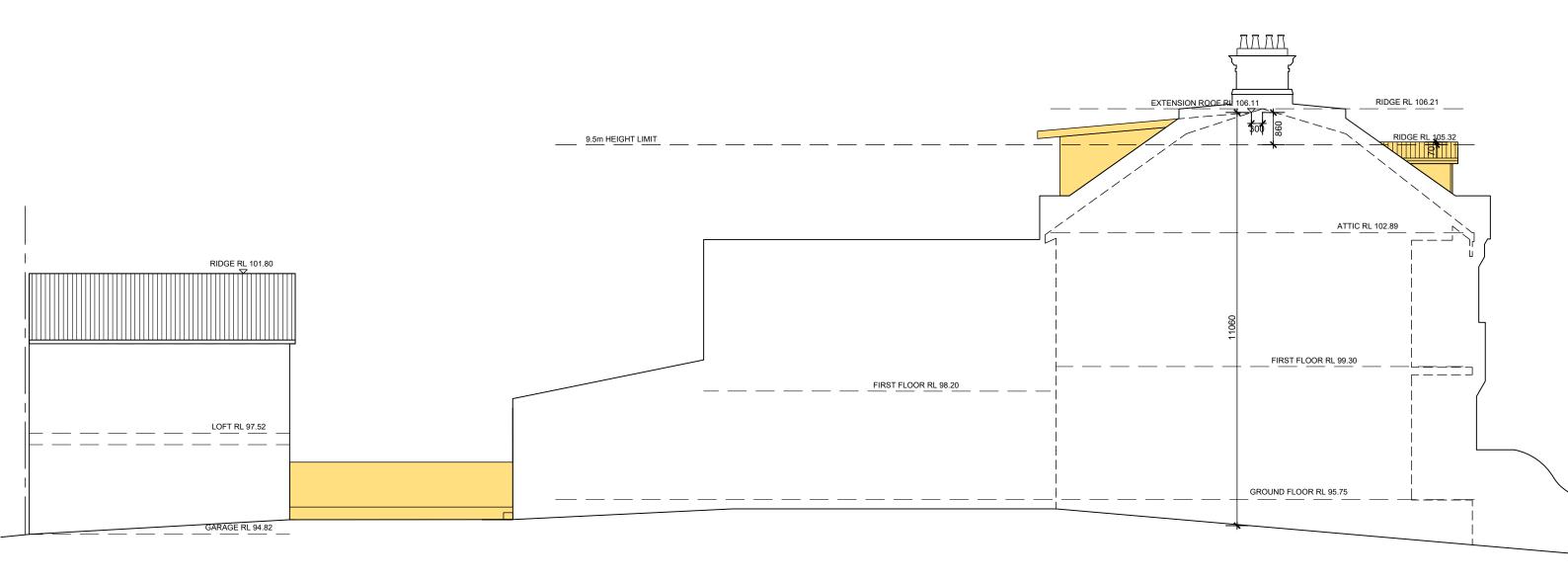


**EAST ELEVATION** 

RECEIVED Waverley Council

Application No: DA-104/2022

Date Received: 19/09/2022

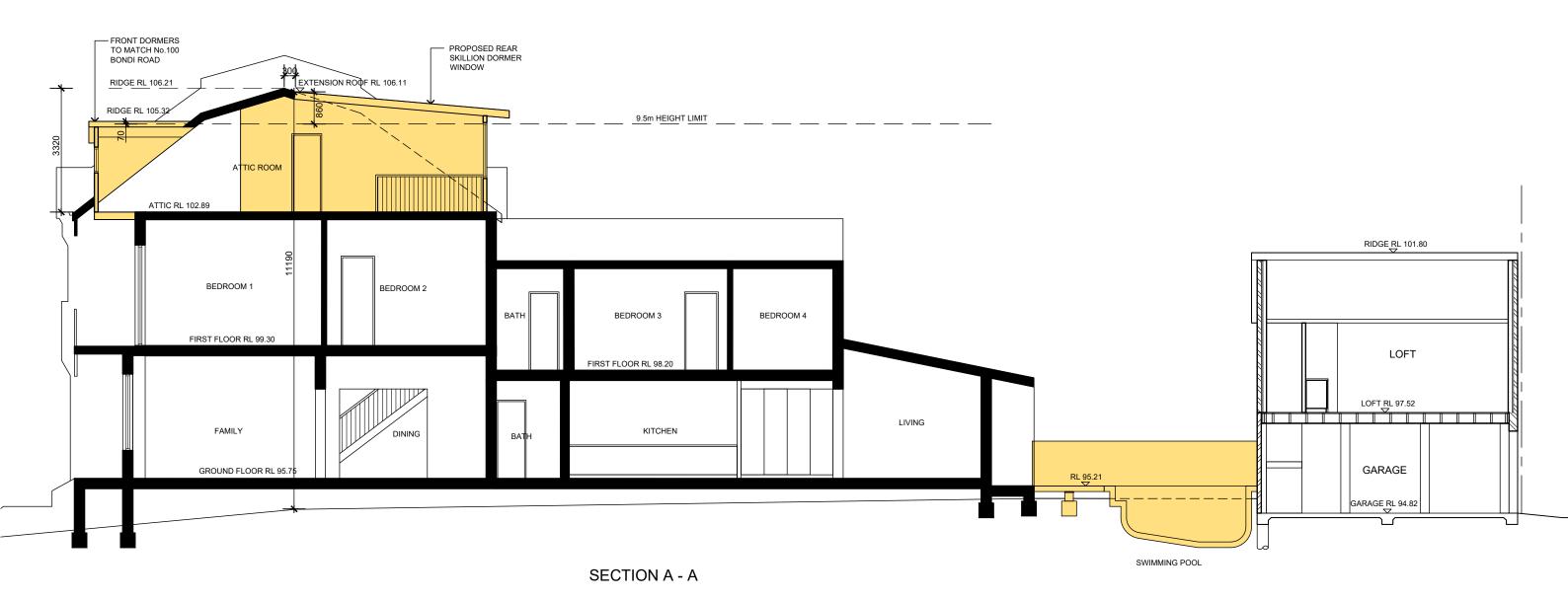


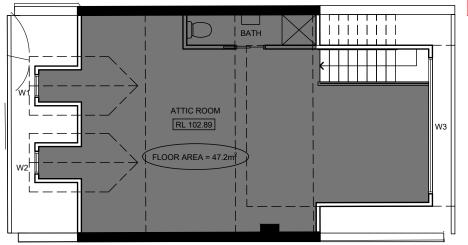
WEST ELEVATION

RECEIVED
Waverley Council

Application No: DA-104/2022

**Date Received: 19/09/2022** 





RECEIVED Waverley Council

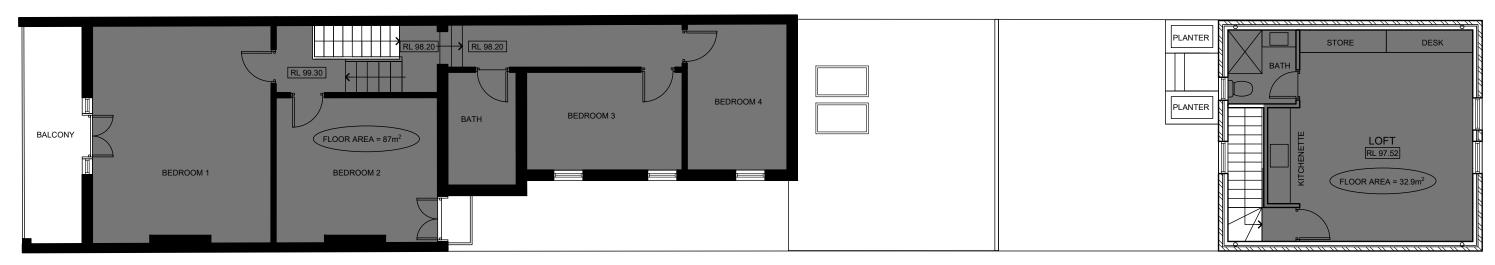
Application No: DA-104/2022

Date Received: 19/09/2022

ATTIC FLOOR PLAN

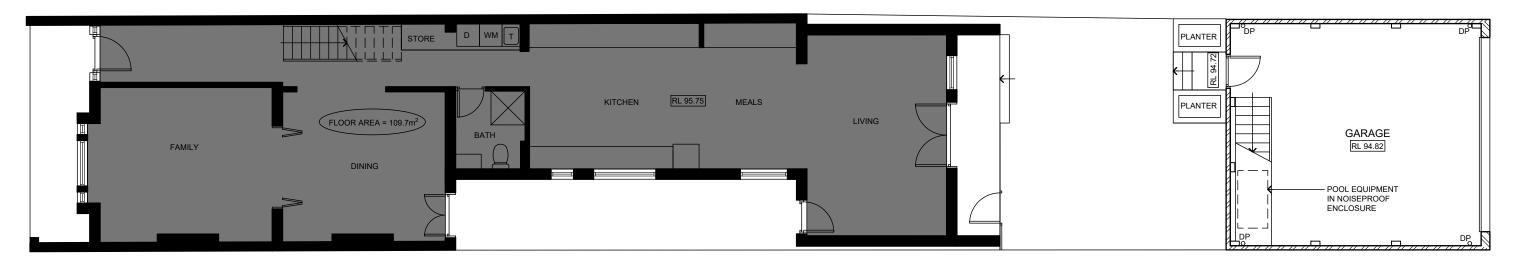
FLOOR SPACE CALCULATIONS	
GROUND FLOOR	109.7
FIRST FLOOR	87
LOFT	32.9
PROPOSED ATTIC	47.2
TOTAL PROPOSED FLOOR SPACE	276.8
TOTAL SITE AREA	260.6
PROPOSED FSR	1.06:1





# FIRST FLOOR PLAN

(AS BUILT PER DA APPROVAL)



# **GROUND FLOOR PLAN**

(AS BUILT PER DA APPROVAL)



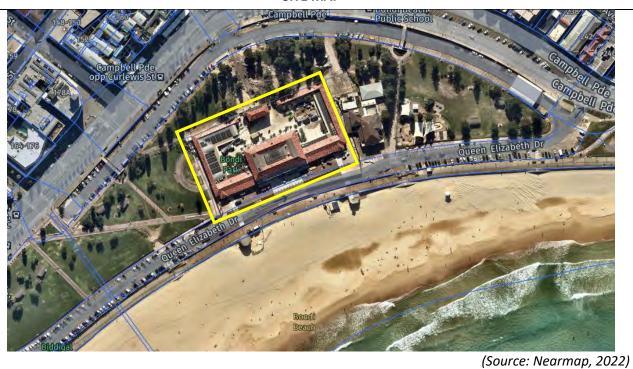




# Report to the Waverley Local Planning Panel

Application number	DA-37/2022		
Site address	Shop 1, Bondi Pavilion, Queen Elizabeth Drive, Bondi Beach NSW 2026		
Proposal	Use of premises (Shop 1) as a Cafe (Surfish Cafe) and associated internal fit-out and outdoor seating		
Date of lodgement	25 January 2022		
Owner	Waverley Council		
Applicant	Waverley Council		
Submissions	Nil		
Cost of works	\$440,000		
Principal Issues	<ul><li>Sanitary Facilities</li><li>Hours of operation</li></ul>		
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.		

# **SITE MAP**



## 1. PREAMBLE

# 1.1. Executive Summary

The Development Application (DA) seeks consent for the use of premises (Shop 1) to a Cafe (Surfish Cafe) and associated internal fit-out and outdoor seating at the site known as Shop 1, within the Bondi Pavilion.

The principal issues arising from the assessment of the application are as follows:

- Sanitary facilities; and
- Hours of operation

The assessment finds these issues acceptable, as a detailed plan of management has been provided as to how the venue will manage patrons from this venue to use the sanitary facilities within the Bondi Pavilion development. Additionally, a condition is recommended that the premises may operate between 6.30am – 7.00am via a reviewable conditions.

Nil submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

# 1.2. Site and Surrounding Locality

A site visit was not carried out as the Council Assessment Officer is familiar with the site.

The Bondi Pavilion is located within Bondi Park and bounded by Campbell Parade to the north west and Queen Elizabeth Drive to the south east. The site is 3.1km from Bondi Junction and 8.5km from the Sydney CBD. The site is located within the grounds of Bondi Park, with landscaped areas to the north and west of the site. Further north is a carpark accessible from Campbell Parade. Uses along Campbell Parade include residential flat buildings, shop-top housing, retail and Bondi Public School.

The site comprises the Bondi Pavilion, the existing forecourt and a small part of the Bondi Park grounds. The existing Pavilion building is comprised of a central two storey building with single storey wings forming a central open-air courtyard. Within the courtyard is a small amphitheatre surrounded by grassed and paved areas.

Around the perimeter of the main building are pedestrian walkways and public seating and benches including picnic tables within loggias along the northern boundary. The western boundary is landscaped and adjoins Bondi Park, with the eastern side adjacent to the Bondi Surf Bathers Life Saving Club.

The Queen Elizabeth Drive frontage is tenanted by restaurants and retail premises. It serves as the main pedestrian entrance to the Pavilion. The first floor contains a theatre and function rooms used by community groups and private bookings. The east and west wing uses include art studios, music rooms and function rooms. The Campbell Parade frontage serves as the vehicular access for the site, with Waverley Council occupying office space above the northern gateway entrance. The entrance is serviced by a hard paved forecourt and path which connects the Pavilion and the Campbell Parade carpark.

The Bondi Pavilion is listed as a State significant heritage item and is located within the Bondi Beach locality, which is identified as place of significance on Australia's National Heritage List. The Bondi Pavilion is also located within the Bondi Beach Beachfront Scenic Protection Area (under Waverley Development Control Plan 2012 (Waverley DCP 2012).

# 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

#### DA-100/2017

A DA for the Stage 1 upgrade of Bondi Pavilion and conservation works was lodged by Waverley Council in March 2017. The DA attracted significant community feedback, which primarily opposed the proposed works under DA-100/2017.

An initial assessment including comments by Council departments, external consultants and the NSW Office of Environment and Heritage (OEH) raised matters concerning heritage, design and proposed commercial uses.

Subsequently, DA-100/2017 was withdrawn in March 2018.

#### DA-105/2019 (Base consent)

A DA for restoration and refurbishment of the Bondi Pavilion, including Heritage Conservation Works, improvement for equitable access, quality of spaces and facilities and ancillary public domain works was approved by the Sydney Eastern City Planning Panel on 19 December 2019.

Relevant conditions of this application include:

#### **CONDITION 9. RETAIL TENANCIES**

The approved retail spaces will require separate development application/s for the fit out and use of the future tenancies.

This approval does not permit cooking to be undertaken on the premises. Any proposal to utilise cooking equipment/appliances will be subject to a separate development application to Council and if approved will require an air handling system designed in accordance with AS 1668.1-1998 and AS1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia.

The provision of additional sanitary facilities within the retail floor spaces for food and drink premises are to be addressed in future development applications. Food and drink premises cannot rely on public/common sanitary facilities located on the Bondi Pavilion site to meet requirements for the provisions of facilities. Separate facilities will be required for the patrons of the food and drink premises.

# CONDITION 10. SEPARATE APPLICATION FOR SIGNAGE

Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council (if required).

#### **CONDITION 121. HOURS OF OPERATION**

# a) Hours of Operation

- i. Internal Areas: The hours of operation for the use of indoor area's of the premises (with exception to theatre on first floor level) is restricted to:
- Monday to Saturday: 7.00am to 11.00pm; and
- Sunday: 7.00am to 10.00pm.

## ii. Theatre (first floor level):

- Monday to Sunday: 7.00am to 11.00pm
- Infrequent 24-hour operation of the theatre spaces is restricted to 12 occurrences per year.
- **iii. Internal courtyard (operational perspective):** The hours of operation for the use of the internal courtyard of the premises is restricted to:
- Monday to Sunday: 7.00am to 10.00pm
- An exemption to these hours applies to temporary events, managed by Council's Event Policy and Events Division.
- b) Irrespective of sub clause (a), the set-up and clean-up for the premises may occur for one hour before and one hour after the approved hours of operation. During this time, the premises shall not trade nor be open to the public.

#### CONDITION 122. REVIEWABLE CONDITION PERMITTING EXTENDED TRADING HOURS

Notwithstanding condition 121 (Hours of Operation) of this consent and subject to condition 123 (Review condition permitting review of extended trading hours) of this consent, the premises may trade as follows ("the extended trading hours"):

Monday to Saturday: 6.00am – 7.00am and 11.00pm – 12.00am Sunday: 6.00am – 7.00am and 10.00pm – 12.00am

#### DA-312/2019

A DA for upgrades to facilities at Bondi Beach including the construction of a public toilet and shower facilities, upgrades to the lifeguard tower and construction of a new lifeguard and first aid facilities was approved by the Sydney Eastern City Planning Panel on 8 September 2020.

# DA-206/2021

A DA for the Installation of building identification signage, business identification signage and way finding signage at Bondi Pavilion was approved by the Waverley Local Planning Panel on 22 September 2021.

# DA-126/2022/A - Shop 3

The DA and associated modification approved a food and drink premises operating 6am - 12 midnight (Monday – Saturday) and 6am - 10pm (Sunday). The modified development was approved on 6 October 2022.

# DA-200/2022 - Shop 4

The DA approved a food and drink premises operating 7am – 11pm (Monday – Saturday) and 7am – 10pm (Sunday). The DA was approved on 12 July 2022.

# 1.4. Proposal

The DA seeks consent for use of premises (Shop 1) as a unlicensed Cafe (Surfish Cafe) and associated internal fit-out and outdoor seating, specifically the following:

- Internal fit-out for the new café, including:
  - o Commercial kitchen with appropriate equipment and workbench space;
  - Bin storage area / dry storage;
  - o Cool room and freezer room;
  - Serving area;
  - o 1 toilet;
  - Internal seating for a capacity of 18 patrons
- Occupation of an approved outdoor dining area in the existing forecourt and new rear courtyard, consisting of:
  - 157m² outdoor dining area in the forecourt with a maximum seating capacity of 116;
     and
  - o 80m<sup>2</sup> outdoor dining area in the rear courtyard with a maximum seating capacity of 75.

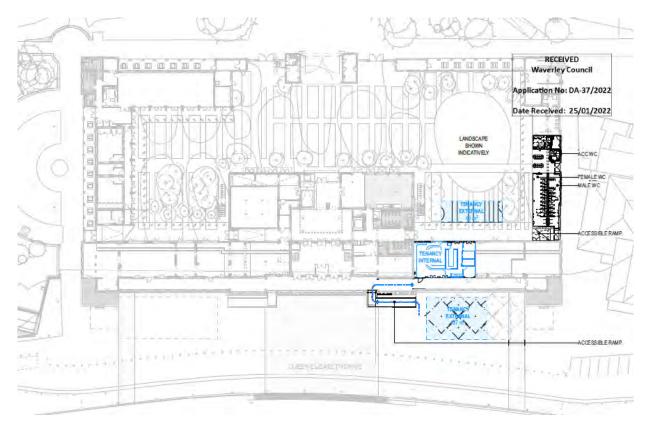
The proposed hours of operation for the premises are as follows:

• Monday – Sunday: 6:30am – 10pm

The total proposed capacity of the premises is 224 persons with the following sub-limits as follows:

- Staff: 15 persons; and
- Patrons: 209 persons.

**NOTE:** No signage is proposed as part of this development application, signage zones were sought as part of the approved DA-206/2021.



**Figure 1**. Location of the subject site (blue) in context to the overall Bondi Pavilion. (Source: Tonkin Zulaikha Greer Architects, 2022)

# 1.5. Background

The DA was deferred on 6 June 2022 for the following reasons:

- A Section 60 Certificate issued by Heritage NSW was required.
- The use was to provide sanitary facilities internally to comply with the National Construction Code.
- Cooking facilities were to be shown.
- Hours of operation were to be further restricted then what was applied for.
- Waste management was to be addressed.

Information was provided on 7 September 2022, to address these issues. This will be discussed in more detail below.

# 2. ASSESSMENT

The following matters are to be considered in the assessment of this DA under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

# 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State Environmental Planning Policies (SEPPs), and development control plans.

#### 2.1.1. Acts

The following Acts apply and have been considered acceptable in the assessment of this DA:

- Heritage Act 1997
- Crown Land Management Act 2016

A detailed discussion is provided for relevant Acts as follows:

# Heritage Act 1997

A Section 60 Certificate was issued under the base build, DA-105/2019, which considered the impacts of the overall restoration works on the Bondi Pavilion as a State Heritage Item. As this DA is for internal fitout works associated with the tenancy only, a Section 60 is not required, as the works involved are referenced in the Standard Exemptions, granted by Ministerial Order (on 2 June 2022) under Section 57(2) of the Heritage Act 1977, which states:

## <u>Standard Exemption 3: Alteration to non-significant fabric</u>

The following specified activities/ works to an item do not require approval under subsection 57(1) if the specified activities/ works are undertaken in accordance with each of the relevant standards prescribed below.

#### Specified activities / works:

The alteration of an item involving the introduction of new fabric and/or the removal of non-significant fabric.

#### **Relevant Standards:**

- b. The specified activities/works must not impact the heritage significance of the item.
- c. Significant fabric of the item must not be impacted.
- d. Relics must not be impacted.
- e. Activities/works must not involve construction of extensions or additions where these may impact the item's setting, views to or from the item, obscure existing significant fabric, impact relics and/or impact significant landscape layout, landscape elements or vegetation.
- f. The positioning and size of walls, windows and doors is not altered.
- g. Significant finishes, surfaces (including flooring) and fixtures must not be impacted.
- h. Any new fabric must be sympathetic to but can be distinguished from the appearance, composition, detailing, size, position and finish of existing fabric.
- i. Non-significant fabric must be identified as non-significant fabric in the listing on the State Heritage Register or the gazetted Interim Heritage Order, or a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or identified as non-significant fabric in written advice prepared by a suitably qualified and experienced heritage professional before it can be removed.
- j. Installation of new fabric must be in accordance with the policies of a Conservation Management Plan, Conservation Management Strategy, Heritage Collections Plan, Archaeological Management Plan or Aboriginal Place Management Plan or in written advice prepared by a suitably qualified and experienced heritage professional before installation.
- k. Any new fabric must not impact setting or views to or from the item, obscure existing significant fabric or limit access to existing fabric for future maintenance.
- I. Any new penetrations must be:
  - i. limited in number; and

- ii. made through non-significant fabric or mortar joints only.
- m. Any excavation must comply with Standard Exemption 8: Excavation relevant standards.
- n. Any new fabric must not exacerbate the decay of existing fabric or risk the destruction of existing significant fabric due to chemical incompatibility, vibration, percussion or explosive flammability.

Council's Heritage Officer also raised no objection to the proposed work.

### Crown Land Management Act 2016 (CLM Act 2016)

A referral from Crown Lands was not required, as it was sought under the consent for the whole Bondi Pavilion under DA-105/2019.

The CLM Act 2016 introduced significant changes to the management of Crown Land in NSW. Specifically, Councils now manage their dedicated or reserved land as if it were public land under the Local Government Act 1993.

Bondi Beach and Park (No. 50048) (including the Pavilion and promenade) and Biddigal Reserve (No. 94356) are Crown Land Reserves controlled by the State of NSW. As the appointed CLM, Waverley Council is responsible for the care, control and management of the park on behalf of the State.

The dedicated purpose of the site is for public recreational.

The CLM Act 2016 sets out the parameters for the use and management of Crown Lands. Clause 1.3 of the Act identifies the objectives to ensure that Crown Land is managed for the benefit of the people of New South Wales.

The objects of this Act are—

- a) to provide for the ownership, use and management of the Crown land of New South Wales, and
- b) to provide clarity concerning the law applicable to Crown land, and
- c) to require environmental, social, cultural heritage and economic considerations to be taken into account in decision-making about Crown land, and
- d) to provide for the consistent, efficient, fair and transparent management of Crown land for the benefit of the people of New South Wales, and
- e) to facilitate the use of Crown land by the Aboriginal people of New South Wales because of the spiritual, social, cultural and economic importance of land to Aboriginal people and, where appropriate, to enable the co-management of dedicated or reserved Crown land, and
- f) to provide for the management of Crown land having regard to the principles of Crown land management.

The CLM Act 2016 and Local Government Act 1993 requires a Plan of Management for Bondi Beach. In 2020, Council updated their Plan of Management entitled 'Bondi Park Beach and Pavilion Plan of Management'. The objective of the plan is to outline appropriate management principles in conjunction with the Master Plan and to improve recreational facilities to meet future demand over the next ten years.

# 2.1.2. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

SEPP (Biodiversity and Conservation) 2021

SEPP (Resilience and Hazards) 2021

A detailed discussion is provided for relevant SEPPs as follows:

# SEPP (Biodiversity and Conservation) 2021

The Bondi Pavilion is located within a Habitat Corridor. As the application relates to the use of a food and drink premises. A referral to the Biodiversity Officer is not required.

## SEPP (Resilience and Hazards) 2021

SEPP Coastal Management applies to the subject site as it is wholly located within the Coastal Environment Area (i.e. defined by Division 3) and a Coastal Use Area (i.e. defined by Division 4).

Division 4 of the SEPP states that development consent must not be granted for development on land within the Coastal Use Area unless the consent authority has considered and is satisfied with the following matters for consideration outlined in **Table 1** of this report.

Table 1: Division 4 of SEPP (Resilience and Hazards) 2021 Matters for Consideration Table

Matter for Consideration	Compliance	Comment	
(a)the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—			
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Yes	The proposal is not expected to cause disruption to access the foreshore, beach, headland or rock platform for members of the public, including persons with a disability.	
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	Yes	The proposal is not anticipated to cause overshadowing wind funnelling or loss of views to public places or the foreshores.	
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	No	The proposal is not anticipated to cause visual amenity and scenic qualities of the coast.	
(iv) Aboriginal cultural heritage, practices and places,	-	N/A	
(v) cultural and built environment heritage, and	-	N/A	
(b)the consent authority is satisfied that:			
(i) the development is designed, sited and will be managed to	Yes	The proposed development is considered appropriate.	

Matter for Consideration	Compliance	Comment	
avoid an adverse impact referred to in paragraph (a), or			
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	-	N/A	
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	-	N/A	
(c)the consent authority has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.			
	Yes	The proposed development is of a similar bulk and scale to that of surrounding dwellings.	

# 2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 2: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal meets the aims of the Waverley LEP 2012.
Part 2 Permitted or prohibited de	velopment	
Land Use Table  RE1: Public Recreation	Yes	The proposal is defined as a food and drink premises, which is permitted with consent in the RE1 zone.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation		The Bondi Pavilion building is located within the:  Bondi Beach Conservation Area (C2)
	Yes	<ul> <li>(local)</li> <li>Bondi Beach and Park Landscape Conservation Area (C25) (local)</li> <li>Bondi Beach Heritage Item (I93) (national)</li> </ul>

Provision	Compliance	Comment
		Bondi Beach Cultural Landscape     Heritage Item (I94) (state)
		The applicant has advised that the proposed works qualify for the standard exemptions 3 and 4 of the Heritage Act 1997, not requiring a Section 60 Certificate.
		The Council Heritage Officer also raised no objection to the proposed work.
		The proposed works will not impact the heritage significance of the area or building.

# 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 3: Waverley DCP 2012 – Part B General Provisions Compliance Table

<b>Development Control</b>	Compliance	Comment
1. Waste	Conditions recommended.	Council's Waste Officer has reviewed the application and recommended conditions of consent.
7. Accessibility and Adaptability	Yes	Access must comply with the National Construction Code.
9. Heritage	Yes	Discussed above.
15. Advertising and Signage	N/A	No signage is proposed as part of this DA.

Table 4: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

Development Control	Compliance	Comment
1.1 Other Policies, Strategies	and Standards	
1.2 Design		
1.2.1 Frontages	Yes	Frosted film is proposed to be placed over the store room and wash area windows. This is supported as it screens this area from the public.
1.2.3 General Amenity	Yes	Plant rooms and associated services are located internally, within the envelope of the building.  Th kitchen exhaust connects to the existing roofvent above.
1.2.4 Noise	Condition recommended.	Appropriate noise related conditions are recommended.

Development Control	Compliance	Comment
1.3 Hours of operation		
RE1: Public Recreation	Condition recommended.	The subject site is located within a <i>RE1: Public Recreation</i> zone. The Waverley DCP 2012 does not specify base hours of operation for this zone, therefore the hours for the closest applicable zone are utilised.
		The base hours for a B4 zone are:  • Monday to Saturday: 7am to 11pm  • Sunday: 7am to 10pm  The use proposes to operate:  • Monday to Sunday: 6:30am to 10pm.
	Condition recommended.	A condition is recommended that the use may operate from 6:30am – 7am, as a reviewable condition. Council's supports the reviewable condition to commence from the date of the operation rather than making the use operate for a minimum 6 month period, given the distance the use from residential properties and the precedence set by the reviewable condition for hours set by Shop 3 Gory days under DA-126/2022.

Table 5: Waverley DCP 2012 – Part D2 Outdoor Dining Compliance Table

Development Control	Compliance	Comment	
2.1 Location			
0.6m x 0.6m comfortable dining	Yes	The outdoor seating area complies with the comfortable dining controls.	
2.2 Furniture and accessories			
3.2.1 Accessories	N/A	N/A	
3.2.2 Umbrellas	N/A	The fixed shade structures approved under DA- 105/2019 (base consent) will be utilised.	
3.2.3 Barriers and landscape planters	N/A	N/A	
3.2.4 Heaters	N/A	N/A	
3.2.5 Lighting	N/A	N/A	
2.2.6 Advertising and logos	N/A	N/A	
2.3 Management			
2.3.1 Hour of operation and noise	Acceptable on merit.	Whilst it is noted that condition 116 within DA-105/2019 (base consent) stated that the outdoor seating is to comply with the hours of operation for outdoor seating stipulated within	

Development Control	Compliance	Comment
		this section of the Waverley DCP 2012, given the outdoor seating area is not located on a Council footpath and is located a significant distance from residential areas, it is appropriate that the hours of the outdoor seating areas are consistent with the internal seating area.
2.3.3 Toilet and sanitary conveniences	See discussion	This will be discussed in detail below.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

# **Patron Capacity**

In accordance with Part D1.13 of the National Construction Code. The patron capacity of a restaurant is a maximum of one person per 1m<sup>2</sup>. The use is broken down as follows:

Table 6: Patron Capacity Calculation in accordance with the NCC

Location	Area	Proposed	Maximum permitted
Internal Seating Area	21m <sup>2</sup>	18	21
Front external seating	157m <sup>2</sup>	116	157
area (forecourt)			
Rear external seating	80m²	75	80
area (rear courtyard)			

Each area provides a compliant number of persons.

# Sanitary Facilities

The use proposes a patron capacity of 209.

This will result in a gender split of 55 males and females. The required sanitary facilities can be broken down as:

Table 7: Sanitary Facilities Calculation in accordance with the NCC

Gender	Patron Capacity	Closet Pan	Urinals	Washbasins
Male	55	1	2	2
Female	55	3	N/A	2

The use proposes one internal unisex pan and basin. This does not comply with the above. To overcome this issue, a *Management in Use Procedure – Bondi Pavilion Ground Floor Toilets Plan* was established. There are four sets of public toilets located within the Bondi Pavilion. Those being the south-west (High Tide Room) toilets, the Northern colonnade (Changing amenities), the first-floor toilets located within

the main building which service the Theatre and function rooms and the public toilets on the ground floor of the main Pavilion building.

The ground floor toilets within the main Pavilion building are located immediately adjacent to the northern transect corridor that connects the rear of the three retail tenancies in the northern section of the building, as indicated on the plan below.

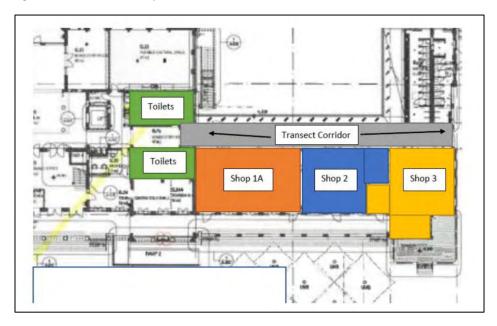


Figure 2. Ground Floor Plan of Bondi Pavilion.

The three commercial tenancies located on the ground floor of the building comprise of Shop1 – 'Surfish Café' (the subject premises), Shop 2 – 'Between the flags' and Shop 3 – 'Glory Days Café'. Both Shop 1 and 3, being food and drink premises, have included the provision of toilets in their fit-out designs.

The number of toilets provided on the ground floor of the main building of the Bondi Pavilion are sufficient to meet the demand from both the patrons of the three tenancies if required, general visitors to the building and the users of the community spaces located in this section of the building, being the Art Gallery, Bondi Story Room and Yallagang room.

The operating hours of the building are 6:00am to 11:00pm, Monday to Saturday and 7:00am to 10:00pm on Sundays. Council venue staff will be on site throughout the entire period of the building's operation.

A venue staff member will open the main entries to the building and public toilets each day at 6am. The toilets will remain open throughout the hours of operation each day. The toilets will be locked down at the close of operations each evening.

Male and female cleaners will be on site each day to ensure that the toilets are able to remain open when being cleaned and therefore remain accessible throughout the full hours of operation of the building.

The continuous operation of the toilets allows for them to be utilised by patrons of the three tenancies when required.

The procedure will be overseen by and reviewed annually by Council's Facilities Manager. It is also acceptable for staff to use the sanitary facilities.

# 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

# 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

# 2.4. Any Submissions

The application was notified for 21 days from 1-22 March 2022 and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*. No submissions were received.

#### 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

# 3. REFERRALS

The following internal and external referral comments were sought:

# 3.1. NSW Police

An external referral was sought from the NSW Police who recommended conditions of consent.

# 3.2. Facilities

An internal referral was sought from Council's Facilities team who recommended conditions of consent.

#### 3.3. Health

An internal referral was sought from Council's Health Department who recommended conditions of consent.

#### 3.4. Waste

An internal referral was sought from Council's Waste Department who recommended conditions of consent.

# 3.5. Heritage

An internal referral was sought from Council's Heritage Officer who did not object.

# 3.6. Fire

An internal referral was sought from Council's Fire Safety Officer who recommended conditions of consent.

# 4. CONCLUSION

The DA seeks consent for the use of premises (Shop 1) as a Cafe (Surfish Cafe) and associated internal fit-out and outdoor seating at the site known as Shop 1, within the Bondi Pavilion.

The principal issues arising from the assessment of the application are as follows:

- · Sanitary facilities op; and
- Hours of operation

The assessment finds these issues acceptable as a detailed plan of management has been provided as to how the venue will manage patrons from this venue to use the sanitary facilities within the Bondi Pavilion development. Additionally, a condition is recommended that the premises may operate between 6.30am – 7.00am via a reviewable conditions.

Nil submissions were received. The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

# Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 13/09/2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara, B Magistrale, T Sneesby* 

# 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
Jonuille	
Joseph Somerville	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 10 October 2022	Date: 10 October 2022

# Reason for WLPP referral:

1. Conflict of interest – Council is the applicant

# APPENDIX A – CONDITIONS OF CONSENT

# A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Tonkin Zulaikha Greer Architects of Project No: 15026 including the following:

Plan Number Plan description		Plan Date	Date received by
and Revision			Council
DA01 / Rev 01	Site Plan	24/11/2021	25/01/2022
DA02 / Rev 01	Tenancy Drawings	24/11/2021	25/01/2022
A02 / Rev B	Proposed Floor Plan	22/08/2022	08/09/2022
A08 / Rev A	Proposed Floor Plan	26/09/2021	25/01/2022
A08 / Rev A	Indicative Rear Outdoor Seating	10/10/2021	25/01/2022
	Area		

- (b) Schedule of external finishes and colours received by Council on 25/01/2022.
- (c) The Waste Management Plan received by Council on 08/09/2022.
- (d) Management in Use Procedure Bondi Pavilion Ground Floor Toilets prepared by Waverley Council and dated 22 September 2022.
- (e) Plan of Management Surfish Café prepared by AB-BM and dated 8 November 2021.

Except where amended by the following conditions of consent.

# 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) The internal layout shown on the approved site plan (DA-01) and the tenancy drawings (DA-02) are to reflect the internal layout of the proposed floor plan (A02).

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

# B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

# **GENERAL REQUIREMENTS**

#### 3. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

# CONTRIBUTIONS, FEES & BONDS

#### 4. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:
    - "Waverley Council Cost Summary Report"; or,
  - (ii) Where the total development cost is \$500,000 or more: "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

# **5. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$23,550 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after

satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

#### 6. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

# **CONSTRUCTION MATTERS**

#### 7. HOARDING

To ensure the site is contained during construction, if hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

#### 8. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### 9. KITCHEN EXHAUST DISCHARGE

The kitchen exhaust discharge must be located at least 6 meters from an openable window, any outdoor fresh air intake and in a position where no nuisance is created.

# TRAFFIC MANAGEMENT

# 10. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development\_applications/post\_determination/development\_applications\_-\_conditions\_of\_consent

#### WASTE

#### 11. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and

construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

#### 12. WASTE STORAGE AREAS

The development must have a bin storage area with sufficient space to accommodate the following minimum requirements.

- Commercial (130 m<sup>2</sup> for cafe)
  - o 1 x 240L Mobile Garbage Bins (MGBs) for general waste, which is transported to larger bin in communal commercial bin storage area for Bondi Pavilion daily.
  - 1 x 240L Mobile Garbage Bins (MGBs) for general waste or food organics, which is transported to larger bin in communal commercial bin storage area for Bondi Pavilion daily.
  - o 1 x 240L MGBs for recycling, which is transported to larger bin in communal commercial bin storage area for Bondi Pavilion daily.
  - o 1 x 240L MGBs for excess waste and recycling which is transported to larger bin in communal commercial bin storage area for Bondi Pavilion daily.
  - The frequency of collection must be monitored by the café staff and adjusted accordingly, particularly during summer.
- All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the Waverley Council Development Control Plan 2012 to the satisfaction of the Principal Certifying Authority.

# **NOISE**

#### 13. REFRIGERATION UNITS & MECHANICAL PLANT

Air conditioning units, refrigeration motors/units and other mechanical plant are not to be installed outside the premises without the prior consent of Council in order to assess the cumulative impacts of noise to adjoining properties. All plant is to be installed within the confines of the building and be acoustically treated to ensure that it within the acceptable limits.

# **PRIOR TO ANY WORKS**

#### 14. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### **DEMOLITION & EXCAVATION**

#### 15. DEMOLITION - ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

Work Health and Safety Act 2011;

- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### 16. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

# **CONSTRUCTION MATTERS**

#### 17. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

# 18. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### 19. FOOD PREMISES

The fitout of the premises must be in accordance with the *Waverley Council Policy for Fit-out and Construction of Food Premises* available on Council's website, as well as any other relevant legislation.

https://www.waverley.nsw.gov.au/building/compliance and regulations/environmental health regulations/food safety

# 20. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002,* clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

# C. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

# **CERTIFICATION AND LICENCES**

# 21. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

# 22. CERTIFICATION OF ALL MECHANICAL PLANT

A Certificate of Test of all mechanical plant together with a copy of the final test figures, conducted by a suitably qualified person, certifying that the system complies with the conditions of this consent, National Construction Code (NCC) and relevant Australian Standards.

# 23. MECHANICAL VENTILATION SYSTEMS

(a) The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.

(b) A Certificate of Compliance is to be submitted prior to the issue of an Occupation Certificate.

# MANAGEMENT PLANS

#### 24. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant;

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) Confer with Sydney Water regarding whether a Trade Waste Agreement is required. A copy of the agreement shall be forwarded to Council if one is entered into with Sydney Water.
- (d) The role and responsibility of managing composting facilities (if provided);
- (e) Clear signage identifying the different bin types, space for reusable items such as crates and pallets, bulky household waste and problem waste must be displayed.
- (f) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (g) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (h) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (i) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan is be available on site when requested.
- (j) At no times shall bins be stored on the public domain (e.g. footpaths).

#### 25. PLAN OF MANAGEMENT

An amended Plan of Management (PoM) is to be submitted and is to include details of all operational and management procedures of the premises, including;

- (a) Venue Management Plan (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints, staffing roles and responsibilities);
- (b) Security Management Plan (relating to tasking and deployment of security personnel, patrons within the premises and their exit and dispersal from the area, and other such operational matters to ensure compliance with relevant regulatory requirements);
- (c) Details to satisfy conditions relating to the smoking area and Community Liaison Committee; and
- (d) Any other such operational matters to ensure compliance with relevant regulatory requirements.

The PoM shall be submitted to and approved by Council's Executive Manager, Development Assessment (or delegate) prior to the issue of any Occupation Certificate. Once the PoM has been approved by Council, a copy is to be provided to the Licensing Police of the Local Area Command prior to the commencement of operations.

# **SHOPS**

#### 26. MECHANICAL EXHAUST MAINTENANCE

A maintenance program is required for the mechanical exhaust ventilation system that includes the cleaning of the system at six (6) monthly intervals. The maintenance program is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

#### 27. FOOD PREMISES REGISTERED

The premises are to be registered with Waverley Council and inspected by Council's Environmental Health Officer prior to the issue of the Occupation Certificate.

# D. OPERATIONAL MATTERS

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

#### 28. HOURS OF OPERATION - REVIEWABLE CONDITION

#### (a) Hours of Operation

The hours of operation for the premises is restricted to:

#### Monday to Sunday: 7.00am to 10.00pm

- (b) Irrespective of sub clause (a), the set-up and clean-up for the premises may occur for one hour before and one hour after the approved hours of operation. During this time, the premises shall not trade nor be open to the public.
- (c) Notwithstanding sub clause (a) and subject to sub clause (d), the premises may trade as follows ("the extended trading hours"):

Monday to Sunday: 6.30am - 7.00am

- (d) Sub clause (c) is subject to sub clause (e).
- (e) The purpose of this review condition is:
  - (i) To enable Council to review the environmental performance of the use and operation of the premises during the extended trading hours;
  - (ii) To enable the Council to change **the extended trading hours** in sub clause (c) after carrying out a review.
- (f) Sub clause (c) will be reviewed not earlier than 1 (one) year from the date of this determination. The Council may change sub clause (c) on review.
- (g) The operator of the premises will be given not less than 14 days written notice that a review of sub clause (c) is to be carried out under this condition. The Council may notify such other persons as it thinks fit of the review. The Council must take into account any submissions made by a person (including the operator) that are received within 14days after notice is given to the person of that review.

- (h) Consideration of the review will include, but not be limited to:
  - (i) Compliance of the premises in terms of security and its general management;
  - (ii) Number and nature of substantiated complaints regarding the operation of the premises received by Council or the NSW Police Force;
  - (iii) Compliance with conditions of consent and the Plan of Management;
  - (iv) Any comments received from the NSW Police Force; and
  - (v) Any other matters considered relevant to the environmental evaluation of the premises.
- (i) This condition applies during the period that sections 80A (10B)-(10E) of the *Environmental Planning and Assessment Act 1979* remains in force. In the event Section 80A (10B)-(10E) of the *Environmental Planning and Assessment Act 1979* is repealed or amended in such a way so as to prevent a review of the extended trading hours, the extended trading hours will cease to apply on the one year anniversary of this determination.
- (j) If the Council makes a decision to change reviewable sub clause (c) and:
  - (i) An appeal against that decision is lodged within 7 days of service of the determination in respect of the decision; and
  - (ii) The appeal is prosecuted by the appellant with diligence then the operator may continue to trade during the extended hours until the Land and Environment Court has finally determined the appeal.

#### 29. MAXIMUM PATRON CAPACITY

(a) The approved patron capacity for the premises is limited to:

Location	Patron Capacity
Internal	18
Rear Courtyard	75
Beachfront	116
Total	209

- (b) A comfortable dining position must be available for each patron upon the premises. This will include a seat and access to table / bench space generally in accordance with the approved plans.
- (c) Any person/s attending the premises for the purpose of 'takeaway' products / services will not be considered a 'patron' for the purposes of subclause (a), provided no food and or drink is consumed by those persons on the premises.
- (c) Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).

# **30. SIGNAGE TO BE DISPLAYED**

(a) Signage (in lettering not less than 150mm in height on a contrasting background) is to be erected in a prominent position near the main entry to the premises. The signage shall state:

Approved hours of operation – Indoor and Outdoor Areas Monday to Sunday: 6.30am – 10.00pm

Approved patron capacity:

Location	Patron Capacity
Internal	18
Rear Courtyard	75
Beachfront	116
Total	209

(b) Signage (in lettering not less than 150mm in height on a contrasting background) is to be erected near the main entry to the premises, in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

Upon leaving please respect local residents by minimising noise

(c) Signage specified in sub clauses (a) and (b) is to be erected prior to the commencement of operations.

#### 31. COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or ILGR Authorised Officers.

#### 32. OPERATION IN ACCORDANCE WITH PLAN OF MANAGEMENT

- (a) The operation and management of the premises shall be in accordance with a Council approved Plan of Management (PoM) at all times.
- (b) The approved PoM shall be adopted by the Management of the premises.
- (c) The plan shall be reviewed (at minimum) on an annual basis, and at any time there is a change in business ownership of the premises.

#### 33. PATRONS LEAVING PAST 10PM

Any patrons exiting the premises after 10pm each evening must do so through the front entry doors to the Beach side Pavilion forecourt and not through rear into Pavilion courtyards as the rear gatehouse exit doors may be closed.

# **AMENITY & SAFETY**

# 34. AMENITY

The management of the premises is to:

- (a) Ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood
- (b) Record in a formal register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted

- and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided
- (c) Respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the register.

# **35. NOISE EMISSIONS**

- (a) The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard 1055.

# 36. NOISE - MECHANICAL PLANT (COMMERCIAL PREMISES)

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- (c) Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

# **37. AIR EMISSIONS**

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997.

#### 38. WASTE MANAGEMENT PLAN REVIEW

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

### **39. LITTER CHECKS**

Regular litter patrols are to be undertaken in the general vicinity of the premises (20 metres from the front door of the premises) to monitor litter, including cigarette butt litter and. A register must be maintained and kept on the premises at all times detailing date, time of check, staff member responsible and signature. Building management must provide tenant and resident education to ensure appropriate disposal of cigarette butts.

#### **40. NOISE COMPLAINTS**

If, during on-going use of the premises, substantiated complaints of breaches of noise emission conditions and/or the Protection of the Environment Operations Act, 1997 occur, an acoustic report assessing the impact of the operation will be required to be carried out by a suitably qualified acoustic consultant. The report is to be submitted to the satisfaction of Council's Health Compliance Unit within 60 days of written request. The investigation shall include, but not be limited to:

- (a) The identification of sensitive noise receivers potentially impacted by the proposal;
- (b) The quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and accordance with relevant Australian Standards and NSW Environment Protection Authority (EPA) requirements);
- (c) The formation of a suitable assessment criteria having regard to the guidelines contained in the NSW EPA Industrial Noise Policy;
- (d) The identification of operational noise producing facets of the use and the subsequent predictions of resultant noise at the identified sensitive receiver locations from the operation of the use. Where appropriate the predication procedures must be justified and include an evaluation of prevailing atmospheric conditions that may promote noise propagation;
- (e) A statement indicating that the operation of the premises complies with the relevant criteria together with details of acoustic control measures that will be incorporated into the development/use, will not create adverse noise impacts to surrounding development.

#### 41. NO BARBECUE OR CHARCOAL TYPE COOKING

This approval does not permit the installation of barbecue or charcoal type cooking appliances. Comprehensive details must be submitted with a formal application to Council for approval prior to the installation of any such equipment.

# 42. SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES

The Management must install and maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the requirements of Waverley Council and the Local Area Command. Please refer to Council's website for further information.

https://www.waverley.nsw.gov.au/ data/assets/pdf file/0008/172466/Requirements for CCTV PDF .pdf

# 43. NOISE FROM GLASS REMOVAL

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred within the premises and removed in containers.

# **OUTDOOR SEATING AREA**

#### 44. CRITERIA FOR OPERATION

The restaurant associated with the use of outdoor dining is to meet with the following criteria:

(a) provide waiter table service;

- (b) provide non-disposable eating utensils;
- (c) provide adequate washing-up facilities on the premises; and
- (d) ensure no advertising or corporate logos/colour schemes on any of the utensils or furniture items.

#### **45. NUISANCE**

The Holder must not do, or permit to be done, anything which in the opinion of Council may become a nuisance or a disturbance, obstruction or cause damage, whether to Council property or to a member of the public in the vicinity of the footway, nor use the footway in any noisy, noxious or offensive manner.

#### **46. RESPONSIBILITY FOR REFUSE**

The Holder of the Approval is responsible for removing all refuse and material from the outdoor seating area and surrounding pathway before vacating the outdoor area each day.

#### **47. FURNITURE**

- (a) All outdoor furniture and planting must be maintained at all times in a physically sound condition and of an appearance that is deemed to be acceptable by Council.
- (b) The chairs and tables should be able to be stacked or folded for storage within the premises when the premises is closed or outside of approved hours. No furniture or other structure is to be fixed to the pavement without the consent of Council.
- (c) All tables, chairs and other furniture is to be located solely in the approved outdoor seating area. In the event that any furniture, equipment or items remain with the Approved Area outside the approved hours then the Council is entitled to collect and retain that furniture, equipment or items and hold them for a period of 14 days after which time the Council may sell that furniture, equipment or items and apply the proceeds received after payment of selling costs in reduction of any fee or money payable to Council arising under or in connection with this approval including the costs or collecting and storing such furniture, equipment or items.
- (d) No advertising is permitted on the furniture or umbrellas.
- (e) The proprietor of the restaurant is to be responsible for:
  - (i) maintaining all furniture in good repair; and
  - (ii) removal of furniture from the outdoor area outside of the trading hours and storage in an appropriate location.
- (f) Menu boards are to be transportable and must be kept within the outdoor area.
- (g) Umbrellas are to be securely anchored by the applicant to the satisfaction of Council. The cost of the umbrellas and securing them will be borne by the applicant.

#### 48. NO SMOKING WITHIN FOOD PREMISES OR APPROVED OUTDOOR DINING AREA

There is to be no smoking in the area to which this approval relates. Signs are to be prominently displayed at all times when the outdoor seating area is available for use which indicate by words and or diagram that no smoking is permitted within the outdoor seating area. No ash trays are to be provided within the footpath seating area and the holder of this approval and its staff must not provide any lighter or matches or otherwise do anything which facilitates smoking within the outdoor seating area. As soon as the operator or any of its staff become aware that a person is smoking within the outdoor seating area they must require the person to stop smoking, inform the person that it is a condition of this approval that they not smoke in the outdoor seating area and if the person continues to smoke they shall ask the person to leave the outdoor seating area.

Council may issue a written warning to the holder of this approval in respect of any breach of this condition. That warning may be given to the holder of the approval or to any member of its staff.

# E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to <a href="mailto:info@waverley.nsw.gov.au">info@waverley.nsw.gov.au</a> or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days.
   Times may vary or be delayed if information is not received in this required manner.

# **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

# AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

# AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### AD5. SEPARATE APPLICATION FOR SIGNAGE

No signage has been proposed in this application, therefore any advertising or signage requires the separate approval from Council, unless deemed Exempt Development under Division 2 of the SEPP (Exempt and Complying Development) 2008.

# AD6. SIGNS/GOODS IN THE PUBLIC WAY

No signs or goods are to be placed on the footway or roadway adjacent to the property.

#### AD7. SUITABLY QUALIFIED ACOUSTIC CONSULTANT

In these conditions, reference to a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed by a member firm of the Association of Australian Acoustic Consultants.

# BONDI PAVILION - TENANCY 1 FITOUT | DEVELOPMENT APPLICATION



DRAWING LIST		
		SCALE @ A3
DA-00	COVER PAGE	
DA-01	SITE PLAN	1:500
DA-02	TENANCY DRAWINGS	1:200

RECEIVED
Waverley Council

Application No: DA-37/2022

Date Received: 25/01/2022

Date	Issue	Description	NOTES:
24 NOV 2021	01	TENANCY 01 - DEVELOPMENT APPLICATION	Do not scale off drawings. Use figured
			dimensions only. Report any discrepencies
			to the architect. These designs, plans,
			specifications and the copyright therein are
			the property of Tonkin Zulaikha Greer
			Architects Pty Ltd, and must not be
			<ul> <li>reproduced or copied wholly or in part without</li> </ul>
			written permission of Tonkin Zulaikha Greer
			- Architects Ptv Ltd.
			7 101110010 1 17 210.

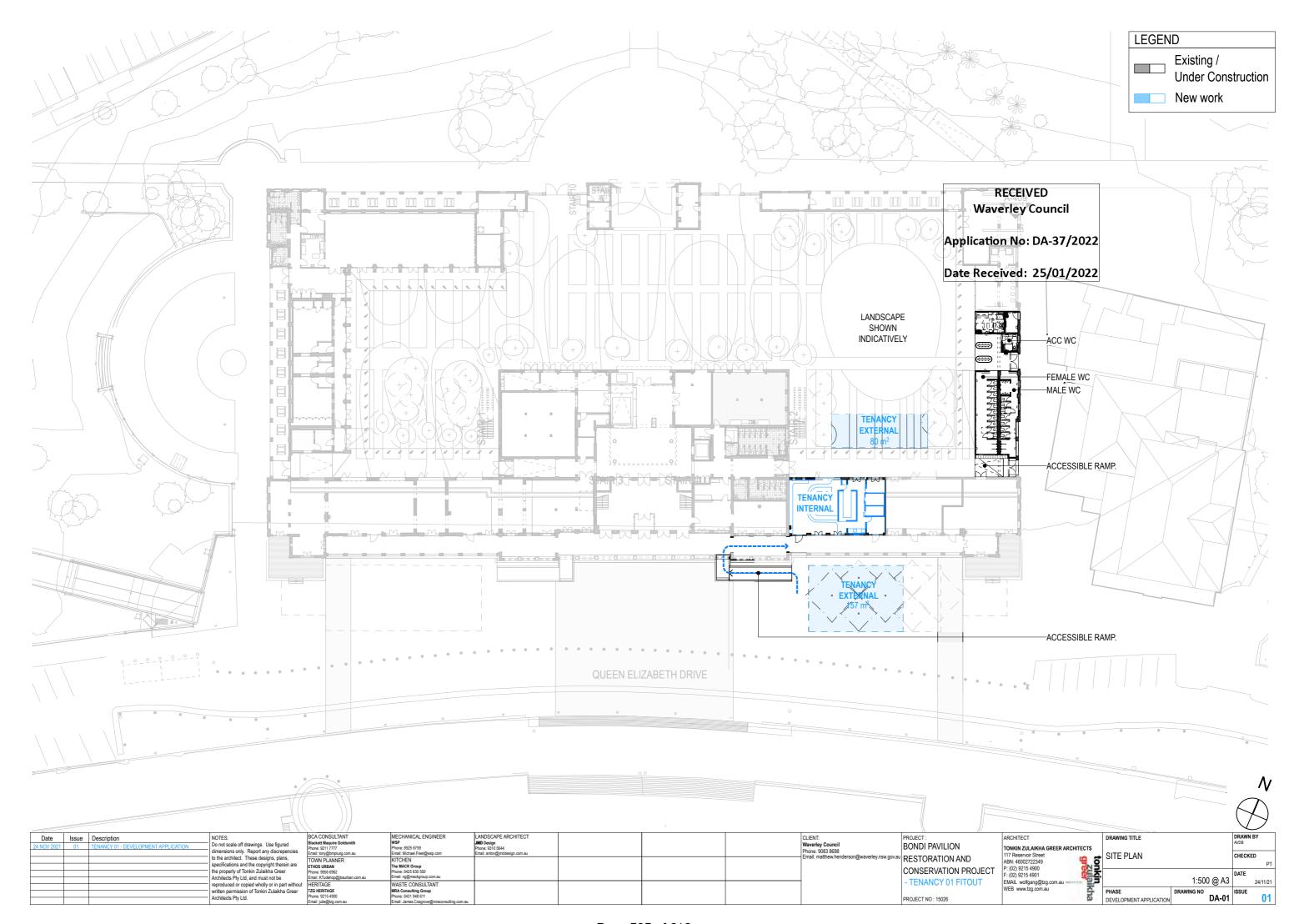
BCA CONSULTANT	MECHANICAL ENGINEER	LANDSCAPE ARCHITECT		CLIENT:	PROJ
Blackett Maquire Goldsmith Phone: 9211 7777 Email: tony@bmplusg.com.au	Phone: 8925 6759	JMD Design Phone: 9310 5644 Email: anton@jmddesign.com.au		Phone: 9083 8698	BOI
TOWN PLANNER	KITCHEN			Email: matthew.henderson@waverley.nsw.gov.au	RE
ETHOS URBAN Phone: 9956 6962 Email: KTudehop@jbaurban.com.au	The MACK Group Phone: 0425 830 550 Email: no@mackgroup.com.au				CO
	WASTE CONSULTANT				- TI
TZG HERITAGE Phone: 9215 4900	MRA Consulting Group Phone: 0431 948 611				DDO.

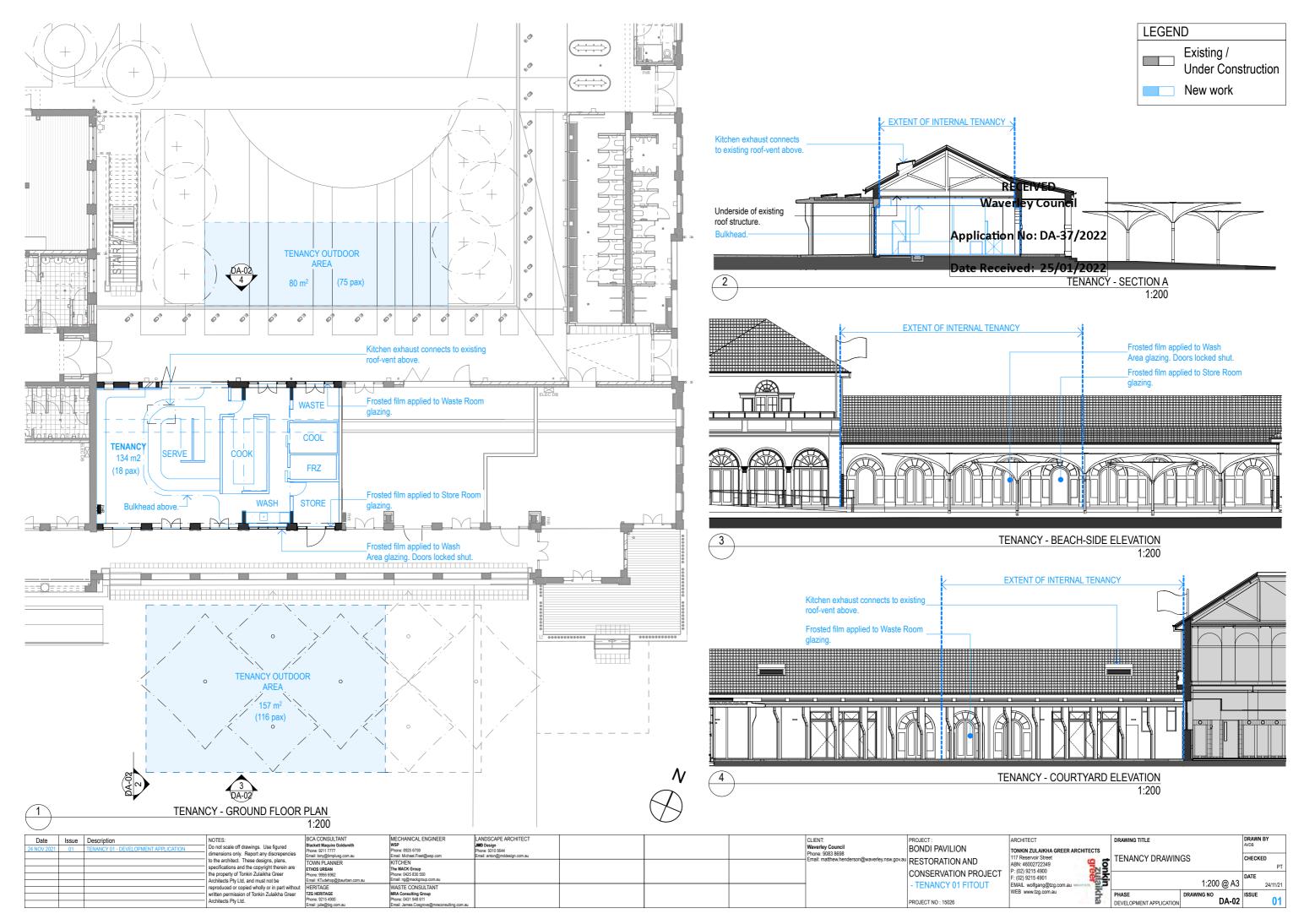
PROJECT:
BONDI PAVILION

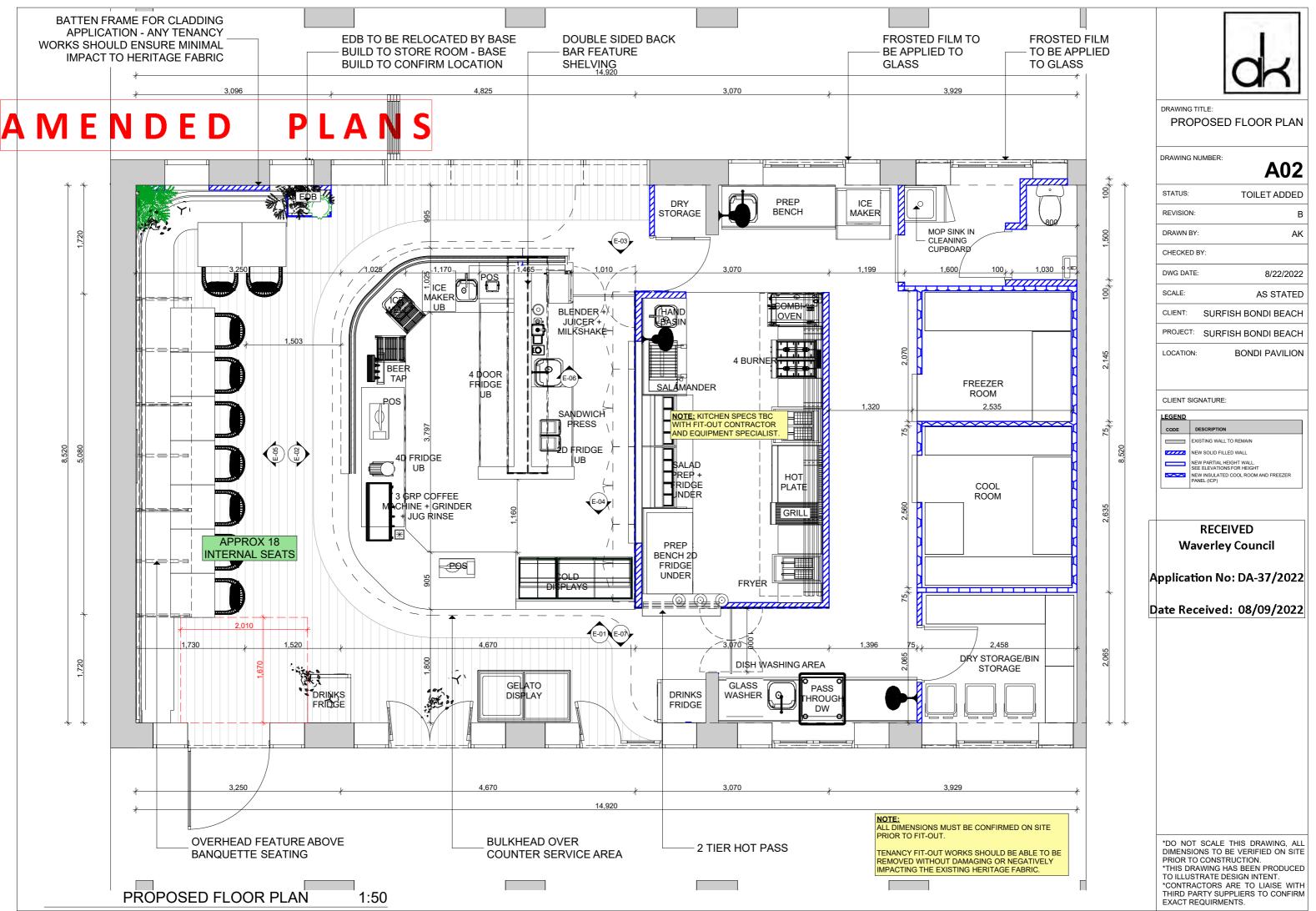
RESTORATION AND
CONSERVATION PROJECT
- TENANCY 01 FITOUT

ARCHITECT
TONKIN ZULAIKHA GREER ARCHITECTS
117 Reservoir Street
ARN: 46002722349
P: (02) 9215 4900
F: (02) 9215 4901
EMAIL wolfgang@tzg.com.au

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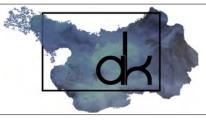






Page 527 of 618



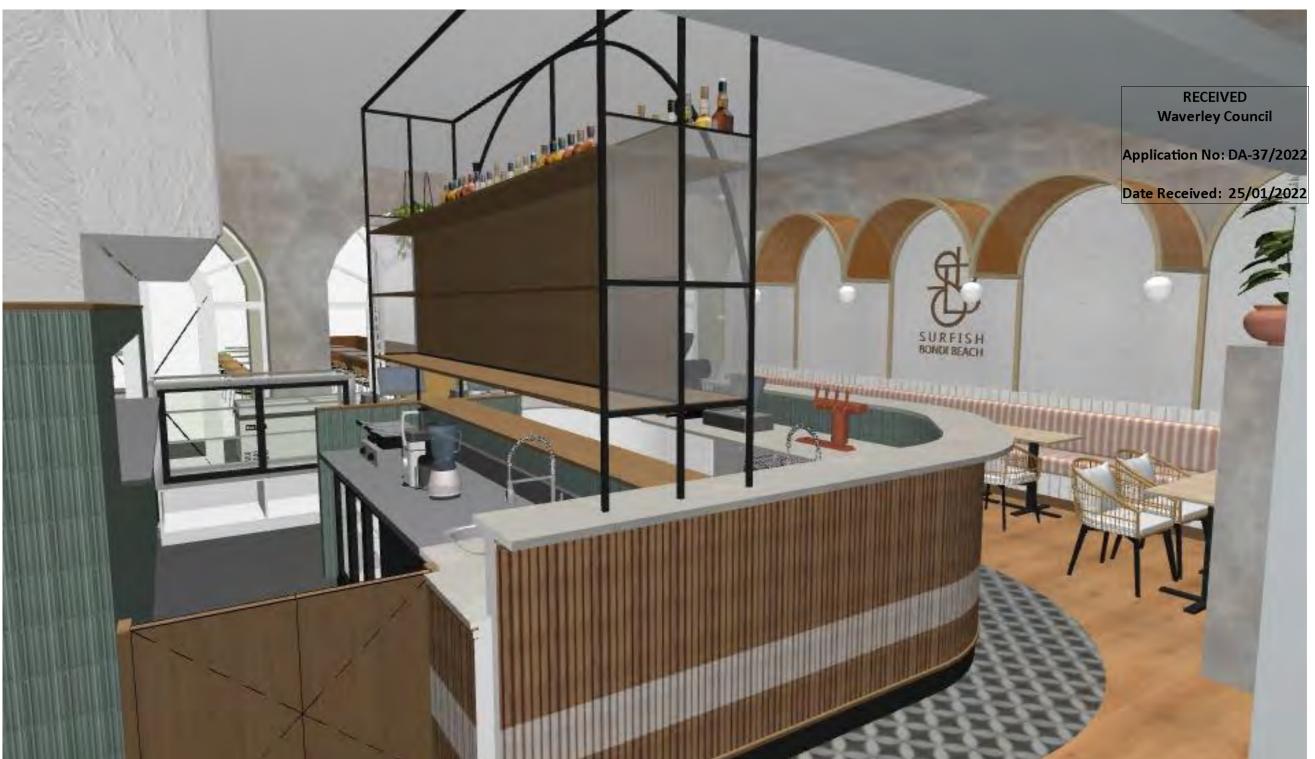


3D VIEWS

STATUS: PRELIMINAR REVISION:  DRAWN BY: A  CHECKED BY:  DWG DATE: 11/17/202  SCALE: AS STATE  CLIENT: SURFISH BONDI BEACH  PROJECT: SURFISH BONDI BEACH		
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CLIENT SIGNATURE:

"DO NOT SCALE THIS DRAWING, ALL DIMENSIONS TO BE VERIFIED ON SITE PRIOR CONSTRUCTION."
THIS DRAWING HAS BEEN PRODUCED TO ILLUSTRATE DESIGN INTENT.
"CONTRACTORS ARE TO LIAISE WITH THIRD PARTY SUPPLIERS TO CONFIRM EXACT REQUIRMENTS."





3D VIEWS

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STATUS:	PRELIMINARY
REVISION:	С
DRAWN BY:	AK
CHECKED BY:	
DWG DATE:	11/17/2021
SCALE:	AS STATED
CLIENT:	SURFISH BONDI BEACH
PROJECT:	SURFISH BONDI BEACH
LOCATION:	BONDI PAVILION

CLIENT SIGNATURE:

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3D VIEWS

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STATUS:	PRELIMINARY
REVISION:	С

DRAWN BY: CHECKED BY:

DWG DATE: 11/17/2021 SCALE: AS STATED

SURFISH BONDI BEACH PROJECT: SURFISH BONDI BEACH

**BONDI PAVILION** 

CLIENT SIGNATURE:

<u>LEGEND</u>

DESCRIPTION CODE F# FINISHES TAG FURNITURE TAG EQ-# EQUIPMENT TAG STAINLESS STEEL TAG SS EXISTING WALL TO REMAIN

NEW SOLID FILLED WALL

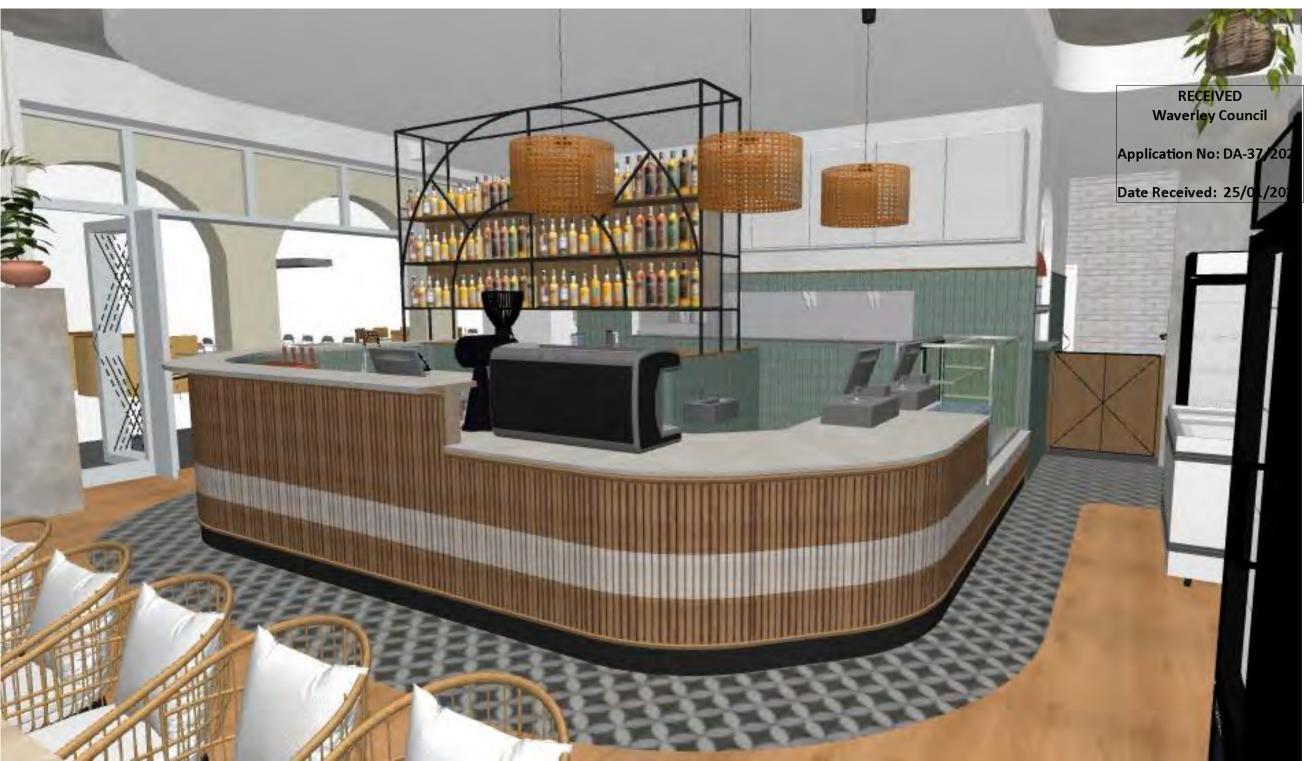
NEW PARTIAL HEIGHT WALL.
SEE ELEVATIONS FOR HEIGHT
NEW INSULATED COOL ROOM AND FREEZER
PANEL (ICP)
EXISTING WALL TO BE DEMOLISHED

NOTES:

1. REFER TO PARTITION PLAN FOR ALL WALL FINISHES.

2. BUILDER TO ENSURE ALL RETAINED FINISHES AND SURFACES TO FLOORS, WALLS, AND CEILINGS INCLUDING COOL ROOM, SHOPFRONT, AND SHOPFRONT GLAZING TO BE MADE GOOD WITH ALL DAMAGE REPAIREDAND PROFESSIONALLY CLEANED TO LOOK AS NEW.

3. BUILDER TO ENSURE ALL RETAINED ELECTRICAL EQUIPMENT, LIGHTING, AND PLUMBING FIXTURES TO BE SERVICED SO IN GOOD WORKING ORDER AND PROFESSIONALLY CLEANED.





3D VIEWS

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STATUS:	PRELIMINARY
REVISION:	С
DRAWN BY:	AK
CHECKED BY:	
DWG DATE:	11/17/2021
SCALE:	AS STATED
CLIENT:	SURFISH BONDI BEACH
PROJECT:	SURFISH BONDI BEACH
LOCATION:	BONDI PAVILION

CLIENT SIGNATURE:

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\*\*THIS DRAWING HAS BEEN PRODUCED TO ILLUSTRATE DESIGN INTENT.
\*\*CONTRACTORS ARE TO LIAISE WITH THIRD PARTY SUPPLIERS TO CONFIRM EXACT REQUIRMENTS.





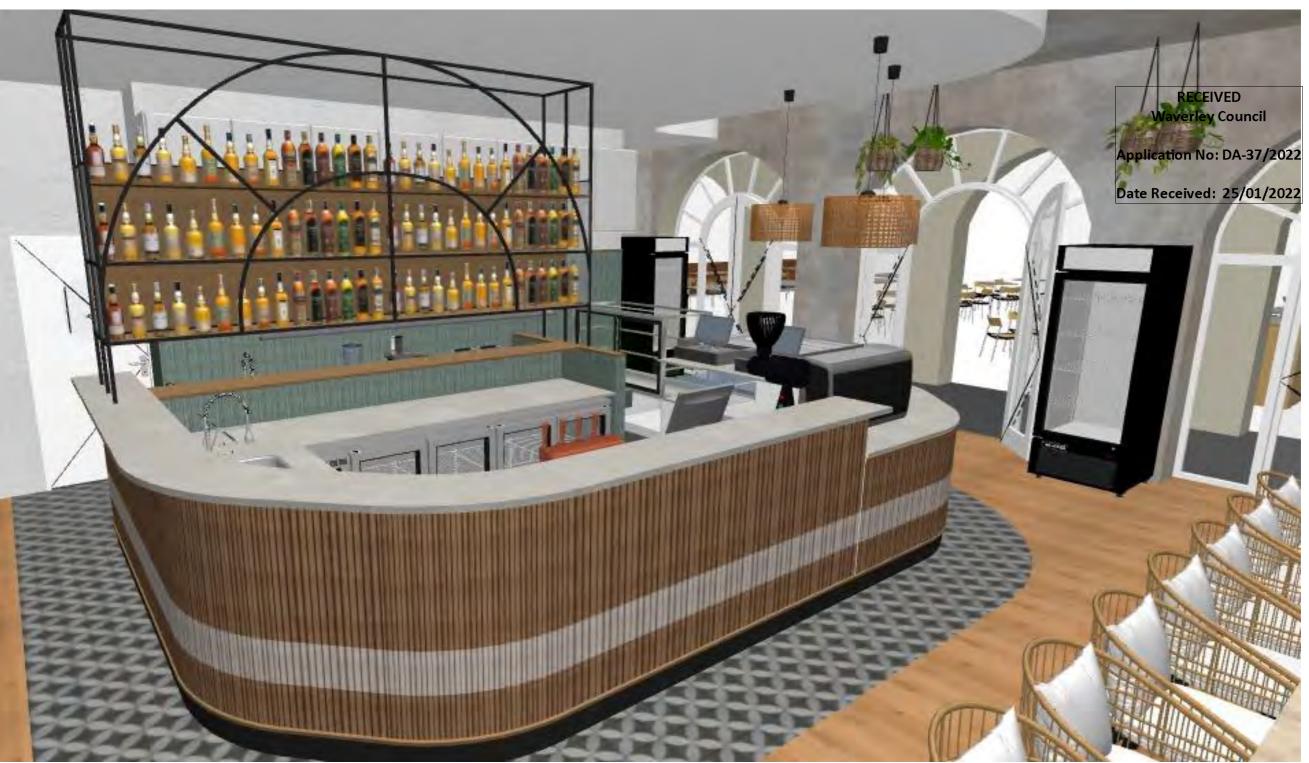
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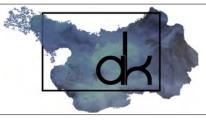
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STATUS:	PRELIMINARY
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DWG DATE:	11/17/2021
SCALE:	AS STATED
CLIENT:	SURFISH BONDI BEACH
PROJECT:	SURFISH BONDI BEACH
LOCATION:	BONDI PAVILION

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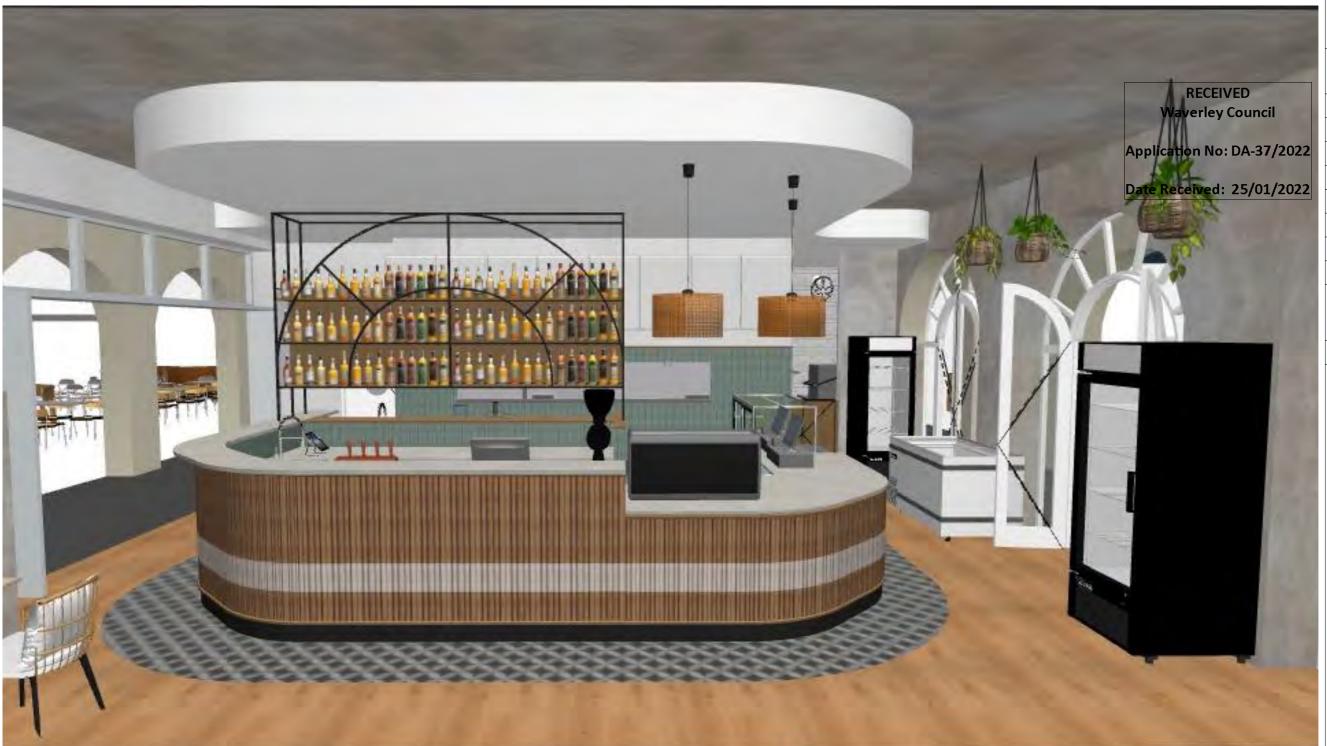


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DRAWN BY:	AK
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DWG DATE:	11/17/2021
SCALE:	AS STATED
CLIENT:	SURFISH BONDI BEACH
PROJECT:	SURFISH BONDI BEACH
LOCATION:	BONDI PAVILION

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CONTRACTORS ARE TO LIAISE WITH THIRD PARTY SUPPLIERS TO CONFIRM EXACT REQUIRMENT





3D VIEWS

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STATUS:	PRELIMINARY
REVISION:	С
DRAWN BY:	AK
CHECKED BY:	
DWG DATE:	11/17/2021
SCALE:	AS STATED
CLIENT:	SURFISH BONDI BEACH
PROJECT:	SURFISH BONDI BEACH
LOCATION:	BONDI PAVILION

CLIENT SIGNATURE:

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FINISHES SCHEDULE						
CODE	NAME	MODEL	MANUFACTURER	DESCRIPTION	LOCATION	IMAGE
WALLS						
W01	NATURAL WHITE	SW1F4	DULUX	SEMI-GLOSS FINISH	BACK OF HOUSE WALLS IN INSTANCES WHERE NOT TILED	
W02	TEXTURED PAINT	TBC	BY PAINTER	RENDER TEXTURED EFFECT	FEATURE WALLS	
W03	FRENCH WASH	FRENCH WASH	PORTERS PAINTS	FRENCH WASH IN BALSAMIC WITH CINDER BASE OR SIMILAR	FEATURE WALLS + BEYOND BULKHEAD CEILING	
W04	SENKEI MOSAIC OR SIMILAR	TERCM186 OR SIMILAR	TERANOVA	SENKEI MOSAIC IN MINT LAID IN STACK BOND- 15X145 - GROUT COLOUR TBC	FRONT OF HOUSE SPLASHBACK	
W05	MARABELLA BLANCO	MAR5800 OR SIMILAR	GLENNON TILES	GLOSS TILE 240X60 LAID IN BRICK BOND - GROUT COLOUR TBC	KITCHEN/BACK OF HOUSE WALLS	
W06	WHITE SHIPLAP TIMBER	SLI 133 X 9 OR SIMILAR	MODINEX GROUP OR SIMILAR	133 X 9MM TIMBER PLANKS WITH WHITE WASH - LEVEL OF WHITE WASH TBC WITH PAINTER	FEATURE WALLS + BANQUETTE SEATING	
W07	BLACK ALUMINIUM SKIRTING	TBC	BY JOINER	100-120MM RECESSED BLACK SKIRTING WITH SHADOWLINE DETAIL	FRONT OF HOUSE WALLS + BANQUETTE + COUNTER JOINERY	
FLOOR	I	1	I		I	
F01	PABLO PATTERNED TILE OR SIMILAR	44781	FREELANCE TILES OR SIMILAR	200X200MM MATT TILE - GROUT COLOUR TBC	SURROUNDING COUNTER FOOTPRINT	X
F02	AMERICAN OAK	2503	POLYFLOR OR SIMILAR	VINYL FLOORING - R10 SLIP RATING	FRONT OF HOUSE AREA	
F03	CHROMITE VINYL OR SIMILAR + COVING	4202	POLYFLOR OR SIMILAR	R12 SLIP RATING + COVING	BACK OF HOUSE FLOORING	
CEILING	i		Ī		I	
C01	WHISPER WHITE OR SIMILAR	SW1C2	DULUX	CEILING FLAT FINISH, SUITABLE FOR KITCHEN CEILING APPLICATION	BULKHEAD CEILING + BACK OF HOUSE CEILING	

					Waverle	y Council
JOINER	Y					
J01	OPEN CANE BEADING	CW-3	HOUSE OF BAMBOO	OPEN CANE BEADING - COLOUR TBC	FRAMED BY ROWDEN  OVERHEAD  BANQUETTE SEAT  Date Received	6666688
J02	BLACK POWDER COAT	27219268 OR SIMILAR	DULUX	SATIN FINISH	BACK BAR SHELVING FRAME	
J03	DURALLOY CLASSIC CREAM OR SIMILAR	2722265M OR SIMILAR	DULUX	MATT FINISH	BANQUETTE SEAT OVERHEAD FEATURE	
J04	FLUTED GLASS OR SIMILAR	NARROWLINE OR SIMILAR	WILLOUGHBY GLASS OR SIMILAR	6MM THICK WITHIN POWDER COATED FRAMES - TOUGHENED GLASS	BACK BAR SHELVING FRAME	
J05	BLACKBUTT TIMBER	N/A	BY JOINER	20MM THICKNESS, SEALED FOR WATER RESISTANCE AND EASY CLEANING	BAR SHELVING	
J06	ENGINEERED BAMBOO CLADDING	SYMPHPONY SERIES	HOUSE OF BAMBOO	CELLO IN RAW FINISH WITH WHITE WASH (DULUX 'NATURAL WHITE') - LEVEL OF WHITE WASH TBC PRIOR TO APPLICATION	COUNTER FRONT	
J07	CLOUDBURST CONCRETE	4011	CEASARSTONE OR SIMILAR	20MM THICKNESS	COUNTER TOP + UPSTAND	
J08	CLASSIC OAK	8537	LAMINEX	IN CHALK FINISH	DOUBLE ACTING DOORS	
J09	CALM NATURAL WHITE OR SIMILAR	200	LAMINEX	IN NATURAL FINISH	OVERHEAD (BACK BAR) CABINET FRONTS	
J10	ROUNDED DADO	TBC	BY JOINER	IN TASMANIAN OAK HARDWOOD 20X20MM	COUNTER TIMBER SLATS TRIM + SPLASHBACK TILE TRIM	
J11	GRACE GARRETT OR SIMILAR	BUSHTRACK MANJA OR SIMILAR	MATERIALISED	CONFIRM FABRIC SUITABILITY PRIOR TO INSTALLATION - MUST BE WATERPROOF + EASILY WIPED DOWN	BANQUETTE SEAT UPHOLSTERY	



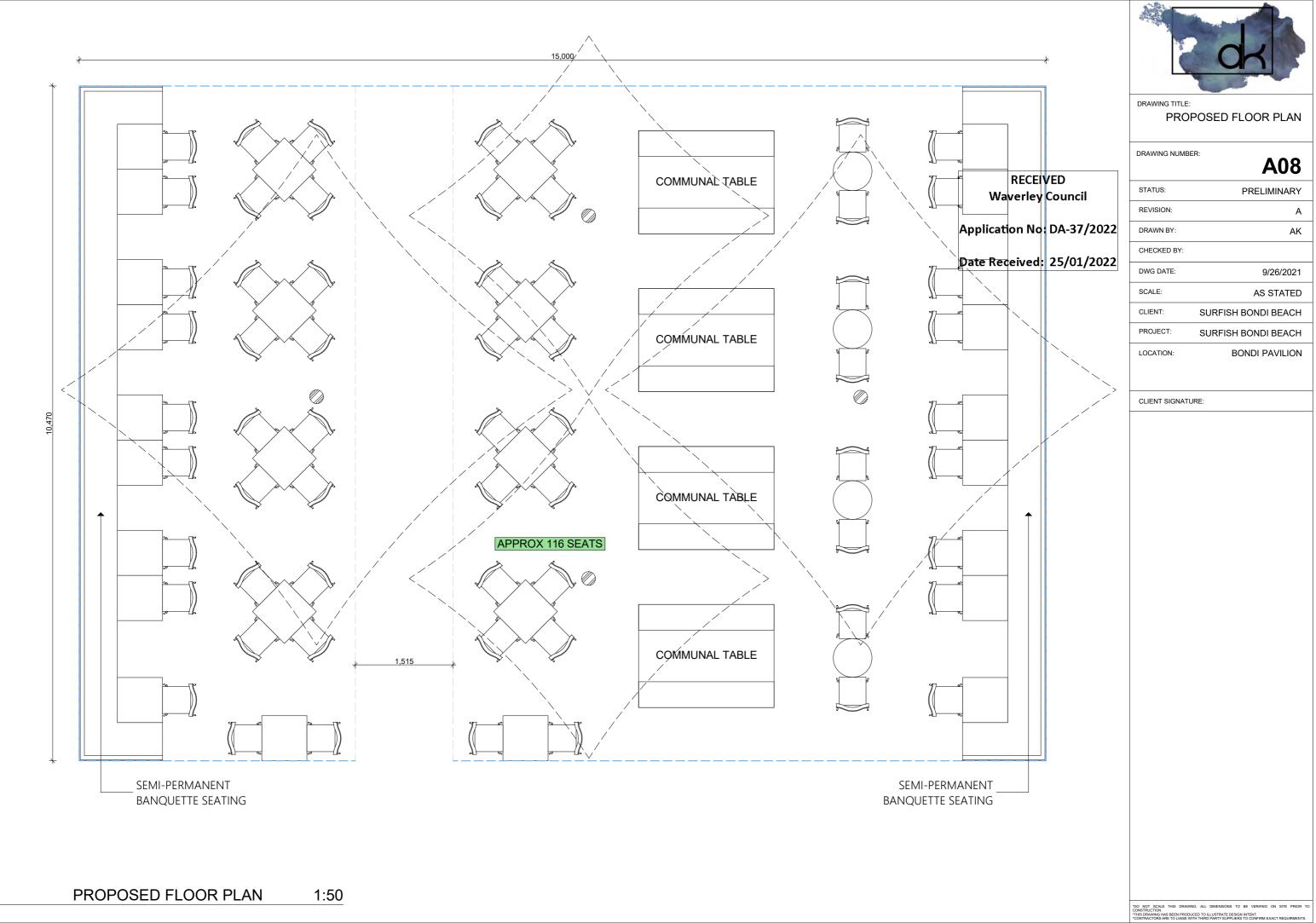
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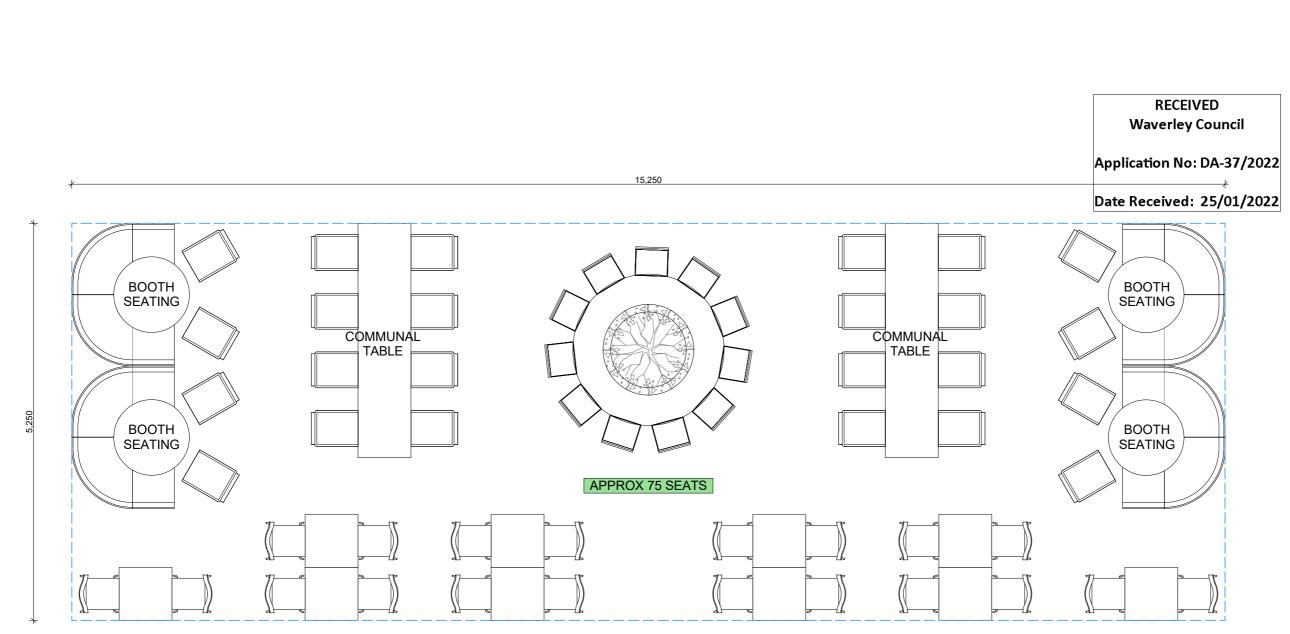
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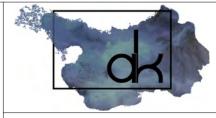
DRAWING NUMBE	A17
STATUS:	PRELIMINARY
REVISION:	С
DRAWN BY:	AK
CHECKED BY:	
DWG DATE:	11/17/2021
SCALE:	AS STATED
CLIENT:	SURFISH BONDI BEACH
PROJECT:	SURFISH BONDI BEACH
LOCATION:	BONDI PAVILION

CLIENT SIGNATURE:

NOT SCALE THIS DRAWING, ALL DIMENSIONS TO BE VERIFIED ON SITE PRIOR TRUCTION.
DRAWING HAS BEEN PRODUCED TO ILLUSTRATE DESIGN INTENT.
TRACTORS ARE TO LIAISE WITH THIRD PARTY SUPPLIERS TO CONFIRM EXACT REQUIRMENTS







# OUTDOOR SEATING PLAN

DRAWING NUMBER: A08

STATUS: PRELIMINARY

REVISION: A

DRAWN BY: AK

CHECKED BY:

 DWG DATE:
 10/10/2021

 SCALE:
 AS STATED

**BONDI PAVILION** 

CLIENT: SURFISH BONDI BEACH
PROJECT: SURFISH BONDI BEACH

CLIENT SIGNATURE:

LOCATION:

INDICATIVE REAR OUTDOOR SEATING AREA 1:50

OT SCALE THIS DRAWING, ALL DIMENSIONS TO BE VERIFIED ON SITE PRIOR RUCTION.

RAWING HAS BEEN PRODUCED TO ILLUSTRATE DESIGN INTENT.

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# Management In Use Procedure

# Bondi Pavilion Ground Floor Toilets

# **Management in Use Procedure – Bondi Pavilion Ground Floor Toilets**

Procedure owner	Terry Kallis – Facilities Manager
Prepared by	Alistair Graham – Operational Readiness Lead Bondi Pavilion
Approved by	Executive Manager, Property and Facilities
Date approved	15 September 2022
Commencement date	22 September 2022
Version	1
Revision date	22 September 2023
Related policies/documents	Bondi Pavilion Operational Plan of Management (approved 6 July 2022)
Related forms	

# 1. Purpose

This Management in Use Procedure addresses the issue of access to toilets located on the ground floor of the Bondi Pavilion building by patrons of retail tenancies located in the Northern section of the building.

# 2. Scope

The Bondi Pavilion is a cultural and community facility located in the heart of Bondi Beach. The building complex comprises of a range of dynamic community and cultural spaces including a Theatre, pottery studio, a radio station, plus multi-purpose community halls and meeting spaces.

The ground floor of the main building consists of multiple beachside food and beverage and retail tenancies, art gallery, Bondi Story Room, Yallagang cultural space, a box office and welcome centre.

The scope of this procedure is restricted to the ground floor toilets of the Bondi Pavilion main building as indicate din Fig 1 below.

# 3. Background

The Bondi Pavilion Operational Plan of Management was developed as part of the planning process and approved by the Director, Planning Environment and Regulatory on the 6 July 2022.

In Item 2.14 of the Bondi Pavilion Operational Plan of Management entitled Public Amenities it states in part:

Bondi Pavilion is equipped with an adequate number of existing and new public amenities to meet the needs of both beach goers and building users.

There are four sets of public toilets located within the Bondi Pavilion. Those being the south west (High Tide Room) toilets, the Northern colonnade (Changing amenities), the first-floor toilets located within the main building which service the Theatre and function rooms, in addition to the public toilets on the ground floor of the main Pavilion building.

The ground floor toilets within the main Pavilion building are located immediately adjacent to the northern transect corridor that connects the rear of the three retail tenancies in the northern section of the building, as indicated on the plan below.

Fig 1. – Plan of part ground floor Bondi Pavilion



The three commercial tenancies located on the ground floor of the building comprise of Shop1 - Surfish Café, Shop 2 - Between the flags and Shop 3 - Glory Days Café. Both Shop 1 and 3 being food and beverage operations have included the provision of toilets in their fit-out designs.

The number of toilets provided on the ground floor of the main building of the Bondi Pavilion are sufficient to meet the demand from both the patrons of the three tenancies if required, general visitors to the building and users of community spaces located in this section of the building being the Art Gallery, Bondi Story Room and Yallagang room.

#### 4. Procedure

The operating hours of the building are to be 6:00am to 11:00pm, Monday to Saturday and 7:00am to 10:00pm on Sundays. Council venue staff will be on site throughout the entire period of the building's operation.

A venue staff member will open the main entries to the building and public toilets each day at 6am. The toilets will remain open throughout the hours of operation each day. The toilets will be locked down at the close of operations each evening.

Male and female cleaners will be on site each day to ensure that the toilets are able to remain open when being cleaned and therefore remain accessible throughout the full hours of operation of the building.

The continuous operation of the toilets allows for them to be utilized by patrons of the three tenancies when required.

## 5. Responsibilities

The procedure will be overseen by and reviewed annually by Council's Facilities Manager.

RECEIVED
Waverley Council

Application No: DA-37/2022

Date Received: 25/01/2022

## **Surfish Café**

# Operations Plan of Management

Release: DRAFT Date: 8-11-2021 Authors: AB-MM

#### **Purpose of the Plan**

This document sets out the relevant information for the operation and management of the Surfish Café to comply with regulatory requirements.

#### **Venue details**

The Surfish café it situated at Shop 1A Bondi Pavilion, Queen Elizabeth Drive Bondi Beach.

#### **Mission Statement**

Surfish Bondi Beach offers an affordable, approachable and sustainable menu that caters to locals, beachgoers, families and tourists alike. We strive to be a place where people can gather and connect with the Bondi community.

#### **Company Details**

Name: POSIDON PTY LTD

ACN: 112858643 ABN: 76112858643

Postal address: 161 Dunning Avenue, Rosebery NSW 2018

#### **Contact Details**

Director name: Iraklis Manthopoulos

Contact number: 0408608855

Director name: Maria Manthopoulos

Contact number: 0402690421

Contact email: maria\_manthopoulos@hotmail.com

#### **Venue Operational Management Procedures**

*Venue areas* – Approximately 127m2 internal, 148m2 outdoor area forecourt, 79m2 outdoor area rear courtyard (areas to be confirmed through survey on completion of refurbishment project).

The maximum number of patrons allowed in each area to be confirmed through the DA process.

Operations manager to ensure capacity limits are not exceeded, signs will be displayed within the venue that clearly states venue capacity. Signage to be replaced immediately if removed.

#### **Operating hours**

6.30am - 10pm daily.

#### **Staffing Structure**

Posidon is a family-run company and Surfish will therefore be a family-run business. Members of the family will be at Surfish on a daily basis with a hands on approach to running the business. The family is supported by managers that have experience in the Pavilion and have worked for the company for many years.

Management will oversee a diverse, dynamic and skilled workforce with some having vast experience in the industry as well as less experienced employees where induction and training will be provided.

There will be 15 staff members available on site at any given time with approximately 25 staff members employed at Surfish.

#### **Maximum Patrons**

The proposed maximum patron capacity of Surfish for the purposes of a food and beverage outlet is a total of 209 patrons at any one time.

#### **Waste Management**

The new purpose-built waste facility which is located in the north west corner of the Pavilion will be utilised to deposit café waste. A waste room will be installed within the tenancy to hold waste and waste will be transferred by staff to the waste facility as required when the capacity of the internal waste room is reached.

The new waste room at the Pavilion includes general waste and recycling compactors which will provide a cleaner and more efficient waste service for the building. The café will be charged by the Lessors automated system for the waste it produces as required under the lease.

#### Cleaning

Staff carry out the cleaning of all tenancy facilities and the lessors contract cleaners maintain all other building areas. If spills occur within the tenancy staff are trained to attend to them immediately.

Staff will regularly sweep, clean and remove waste from the outdoor areas to ensure that the building is maintained in a clean and tidy condition at all times.

#### **Deliveries**

All deliveries will be made via the new access road and loading dock at the Northwest corner of the building. Stock and materials will then be transported to the venue on trolleys. Deliveries will be timed to prevent vehicle congestion and early morning before peak pedestrian times.

#### Security

Surfish will have CCTV cameras for the internal area, front seating and rear courtyard as well as an alarm security system. Surfish will outsource security during certain extremely busy times of the year or if certain Pavilion events call for an extra tool in managing patron capacity and behaviour.

Fixed barriers will be installed to clearly delineate the boundary of the venue.

#### **Amenities**

The public toilets located in close proximity on the ground floor of the main Pavilion building will be utilised by café patrons.

#### **Environmental management**

Surfish has been implementing environmentally sustainable practices since 2005. Single use plastics have been 100% replaced with sustainable alternatives such as the biodegradable wooden cutlery, food containers, straws and paper bags. Minimising food waste by engaging with local suppliers, having a strict delivery schedule and implementing accurate forecasting as well as offering a local, seasonal and flexible menu will help mitigate this issue. Furthermore, staff will be trained and encouraged to recycle when cleaning and clearing up tables.

#### Noise management controls

At all times management shall consider the amenity of its neighbours and shall take all reasonable measures to ensure that there is no significant adverse impact on the surrounding area.

The new venue will be managed to minimise the potential of causing a nuisance. The premises will be operated in accordance with any noise conditions imposed by Council as part of any development approval as well as any requirements of the relevant licensing authority.

Management will take all measures to ensure that the behaviour of staff and patrons when entering, leaving, or occupying the premises does not detrimentally affect the amenity of the neighbourhood

All internal and external speakers will be tactfully positioned as to not project loud noise to the passing public and other users of the Pavilion. Each speaker will be individually controlled by remote and can be lowered and switched off at different times of operation.

#### WH&S

Management is firmly committed to a work health and safety policy enabling all work activities to be carried out safely and with all possible measures taken to remove or minimise risks to the health, safety and welfare of employees, customers, suppliers and anyone visiting the Pavilion. We are committed to ensuring we comply with the relevant Health and Safety Act and Regulations, applicable codes of practice and Australian Standards as far as possible.

We will focus on minimising risks to our employees by implementing safety measures and training procedures focused on hazardous substances, hot liquids, chemicals and electrical equipment. As well as, actively take part and train staff in the Pavilions fire evacuation plan.

Workplace safety and security will also be aided by strategic CCTV, an alarm system and having locks on all entries/exits of the tenancy. Staff members will be trained in cash handling procedures and there will be adequate staff rostered on at different entry/exit points as well as servers, waiters and supervisors as to minimise the likelihood of a crime being committed.





## Report to the Waverley Local Planning Panel

Application number	DA-255/2022			
Site address	Bondi Beach and Park Reserve Trust (Reserve No. 500048) and Biddigal Reserve (within Ben Buckler Park / Ray O'Keefe Reserve) (Reserve No. 94356)			
Proposal	Temporary events within Bondi Beach, Park and Biddigal Reserve.			
Date of lodgement	23 June 2022			
Owner	Waverley Council			
Applicant	Waverley Council			
Submissions	Nil			
Cost of works	Nil			
Principal Issues	Nil			
Recommendation	That the application be <b>APPROVED</b> in accordance with the conditions contained in the report.			

## SITE MAP



#### PREAMBLE

#### 1.1. Executive Summary

The Development Application (DA) seeks consent for the use of temporary events within Bondi Beach, Bondi Park and Biddigal Reserve. The temporary events cover a variety of events of size and scale from 500 people per day (i.e. Bondi Festival) up to 70,000 people (i.e. City to Surf).

No issues arose from the assessment of the DA and no submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

#### 1.2. Site and Surrounding Locality

A site visit was not carried out, as the Assessment Officer is familiar with the locality.

Bondi Beach and Park consists of Crown Land controlled by the State of NSW and is dedicated to Waverley Council as the Reserve Trust Manager (Bondi Reserve Trust D500048). The site is bounded by Campbell Parade to the north and west, Notts Avenue to the south and Ramsgate Avenue to the north.

Bondi Beach and Park is public recreation land and contains a range of spaces, structures and buildings, including:

- Bondi Beach, used for recreational swimming, surfing and other water based activities;
- Bondi Park including Bondi Skate Park, Bondi Surf Life Saving Club (SLSC), North Bondi SLSC, lifeguard tower, picnic shelters, outdoor gym and play equipment; and
- Bondi Pavilion.

The site has three vehicular access points along Campbell Parade and includes onsite parking areas along Queen Elizabeth Drive and Park Drive. Multiple bus stops are located along Campbell Parade providing public transport to Bondi Junction and the Sydney CBD.

To the north-west of the site lies the Bondi Beach commercial centre located around Campbell Parade, Hall Street and Glenayr Avenue. The commercial centre provides cafes, restaurants, shopping and accommodation.

Since 2008 Bondi Beach has been listed as an item of national significance on the Australian heritage register. The Bondi Beach Cultural landscape (encompassing the Bondi Beach, Bondi Pavilion, Bondi Park, Bondi SLSC and North Bondi SLSC are listed on the NSW Heritage register.



Figure 1. Labelling of areas and indicative location of temporary events. (Source: SJB Planning, 2022)

#### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

#### DA-282/2015

Use of Bondi Beach and Park for a variety of temporary events up until 28 October 2020. Approved: 28 October 2015

#### DA-282/2015/A

Modification to adjust the limited consent time period up until 28 October 2022. Approved: 24 January 2022

Relevant conditions of consent from DA-282/2015 and subsequent modifications include:

#### 1. APPROVED DEVELOPMENT

All proposed events are to be in accordance with the requirements of the 'Waverley Council Events Policy', dated June 2015 and 'Outdoor Events Management and Delivery Guidelines', dated October 2015, and any subsequent revisions to these documents.

#### 2. NUMBER OF EVENTS

Bondi Beach and Park can be used for temporary events for a period totalling no more than 6 months per calendar year. The occurrence of events within the 6 month period is detailed as follows:

- (a) Events with no more than 1,000 people per day and falling within the low to medium impact category, may only be held for a combined maximum total of 52 days per calendar year (excluding bump-in and bump-out);
- (b) A maximum of 10 events, with between 1,000 and 5,000 people per day, may only be held for a combined maximum total of 24 days per calendar year (excluding bump-in and bump-out);
- (c) A maximum of 8 events, with between 5,000 and 10,000 people per day may only be held for a combined maximum total of 18 days per calendar year (excluding bump-in and bump-out); and
- (d) A maximum of 4 events, exceeding 10,000 people per day may be held for a combined maximum total of 12 calendar days per year (excluding bump-In and bump-out).

#### 3. EVENTS OVER 10,000 PEOPLE

Condition 2(d) events must be approved by the elected Council and not under staff / officer delegation.

#### 4. TIME LIMITED CONSENT

Pursuant to Section 80A (1)(d) of the Environmental Planning and Assessment Act 1979, this consent is limited to a period of 7 years from the date of this consent.

A new Development application must be submitted prior to the expiration of the time period if it is intended to continue the use. If an Application is not submitted within the specified time period the development subject to this consent must cease.

#### 5. TIMING OF EVENTS

All events are limited to the following maximum hours of operation:

- Monday to Thursday: Sunrise to 11.00pm
- Friday and Saturday: Sunrise to 12.00am (midnight)
- Sunday: Sunrise to 10.00pm.

An exception to the above hours applies for 31 December (New Years Eve), whereby an extension to operate until 2.00am on 1 January (New Years Day) may occur, subject to first obtaining a Venue Hire Agreement from Council (that is, approval to hold such event).

#### 7. USE OF BONDI BEACH AND PARK

This consent applies to the use of Bondi Beach and Bondi Parkland only, as bordered by Ramsgate Avenue to the north-east, Campbell Parade to the north and north-west and Notts Avenue to the south.

This approval does not override any development consent for the use and operation of the public buildings contained within this area, including the Bondi Pavilion and associated courtyard, Bondi SLSC and North Bondi SLSC. In this regard, the patron capacity for these buildings is limited to the maximum number of persons for that premises as permitted under the independent and separate development consent. The capacity stipulated in the separate consent shall be adhered to at all time.

#### 1.4. Proposal

The DA seeks consent for use of temporary events within Bondi Beach, Park and Biddigal Reserve for:

#### **Number of Events**

In no more than 6 months per calendar year, the events occurring within the 6 month period are detailed as follows:

- Events with no more than 1,000 people per day may only be held up to 52 days per calendar year (excluding bump-in and bump-out);
- Events between 1,000 and 5,000 people per day may only be held up to 30 days per calendar year (excluding bump-in and bump-out);
- Events between 5,000 and 10,000 people per day may only be held up to 18 days per calendar year (excluding bump-in and bump-out); and
- Events exceeding 10,000 people per day may be held for a maximum of 12 calendar days per year (excluding bump-in and bump-out).

#### **Event Hours**

The proposed hours of operation for the premises are as follows:

- Monday to Thursday: Sunrise to 11pm; and
- Friday to Saturday: Sunrise to midnight
- Sunday: Sunrise to 10pm.

#### **Types of Temporary Events and their Capacity**

The table below provides an indicative list of the type of events which are held at Bondi Beach and Park each year.

Table 1: Types of temporary events to be covered by the application

Location	Type of Event	Capacity
Bondi Pavilion	Flickerfest	500 per film session
	Latin American Festival	3,000
	Bondi Festival	500 per day
Bondi Park	Outdoor Cinema	600 per day
	Carols by the sea	1,500 people
	Chanuka by the Sea	500 people
	Bondi Festival Ferris Wheel	12 sessions per day with100
		people per session
	City2Surf Fun Run	70,000 – 80,000 people
	Head On Photo Festival	5,000
	Bondi Festival Ice Rink	9 sessions per day (max 150
		people per session)
Bondi Beach	City 2 Surf (Beach marque	Up to 5,000 people
	program)	
	Surf event (various)	1000 – 2000 people
Bondi Beach and Park	Festival of the Winds	70,000 - 90,000 people
	City to Surf (Finish point)	70,000 people
	Ocean Lovers Festival	5,000 people

Sydney World Pride	15,000 people
Annual Live Music Concert	10,000 people

#### **Management of Events**

Management of Bondi Beach and Park is guided by the Bondi Park Reserve Trust. The Trust and Waverley Council Events Team are the key point of contact for individual event applications, which are assessed under Council's Events Policy and Guidelines.

The assessment of an event application will be based on the following criteria:

- Suitability of the event activity and location,
- Availability of the location,
- Impact of the event on the location and surrounds, and
- Development consent requirements.

Council's Events team categorises events into five broad categories, namely low impact events, medium impact events 1 and 2 and high impact events 1 and 2. Details of each category are outlined below in Table 2.

**Table 2: Event Impact Criteria** 

Low Impact Event	<ul> <li>Any event that involves ALL the following:</li> <li>No more than 200 patrons or</li> <li>participants</li> <li>Held between 6 a.m. and 6 p.m. (Outdoor Event)</li> <li>Infrastructure footprint less than 100m2</li> <li>Does not involve the sale of food or drinks (distribution of sample-sizes servings for promotional purposes are permitted under this Impact Classification)</li> <li>Does not involve any traffic or parking changes</li> <li>No amplified sound, or appropriate minimal/low level amplification only</li> </ul>
	Has little or no impact on Council Operations
Medium Impact 1 Event	<ul> <li>An event which meets one or more of the following criteria:</li> <li>No more than 2,000 patrons or participants</li> <li>Infrastructure footprint less than 400m2</li> <li>Involves appropriate low or moderate amplification only</li> <li>the sale of food and/or non-alcoholic drinks, and/or</li> <li>the distribution of full-sized products or servings for promotional purposes, and/or</li> <li>minor traffic or parking changes (that do not need to be referred to Council's Traffic Committee)</li> <li>impacts on Council Operations requiring a change in operation and/or additional resources</li> </ul>
	<ul> <li>A 'Medium Impact 1' event must not:</li> <li>involve the sale or provision of alcoholic beverages</li> <li>finish after 10 p.m. (if the event is an Outdoor Event)</li> </ul>
	Further considerations or limitations may apply depending upon the individual circumstances and location of a proposed event.

Medium Impact 2 Event	<ul> <li>Any event with fewer than 500 patrons or participants wholly within a Council Facility where:</li> <li>Alcohol is sold or provided; and/or</li> <li>High level amplified sound, music, entertainment or activities are present</li> </ul>
High Impact 1 Event	<ul> <li>Any event with 500 to 2,000 patrons or participants wholly within a Council Facility where:         <ul> <li>Alcohol is sold or provided; and/or</li> <li>High level amplified sound, music, entertainment or activities are present; and/or</li> </ul> </li> <li>Substantial changes are made to regular public access through Bondi Pavilion</li> <li>Note: fees for events that are solely or primarily pyrotechnics displays will be applied at the lowest applicable level of fee banding</li> </ul>
High Impact 2 Event	<ul> <li>Any event that involves ANY of the following:</li> <li>More than 2,000 patrons or participants</li> <li>The sale or provision of alcoholic beverages at an Outdoor Event</li> <li>Finishes after 10 p.m. (Outdoor Event)</li> <li>Infrastructure footprint exceeds 400m2</li> <li>Involves high level amplified sound at an Outdoor Event</li> <li>Requires substantial road closures or otherwise significantly impacts on the normal use of roads and/or requires special/additional public transport provisions</li> <li>Impacts significantly on Council Operations</li> </ul>

In light of the above, all medium and high impact event organisers must obtain an event permit for the use of Council owned or managed outdoor venues. Further, all high impact event organisers must obtain a license agreement in addition to the event permit for the staging of a temporary event on Council owned or managed outdoor venues.

The event permit addresses the event specifications including the event description, schedule, venue, event timing as well as bump in and bump put times. Further, matters such as compliance with the noise management plan, traffic and pedestrian management, weather contingency plans, risk management, required infrastructure and resident notification are specified. The permit contains conditions of use. Any failure by the event organiser, associates or sub-contractors to comply with the permit conditions will be a breach of the license agreement.

The license agreement for high impact events goes into further detail of these matters. The agreement outlines the way in which the event organiser is to manage the event and activities in the licensed area for the occupation period in accordance with the terms and conditions set out in the licence.

Temporary events categorised as 'High Impact' require endorsement from Council's Event Team prior to being assessed by full Council.

An overview of the application process for 'High Impact' events are summarised below:

#### Step 1

'High Impact Event Proposal' application is submitted online via Council's website. The form requires the following information:

- Applicant details
- · Event Proposal Details including event description and timing
- Event location
- Patron/ Audience Information
- Event Purpose
- Food and Beverage description
- Sound Amplification
- Proposed Infrastructure
- Information regarding Power requirements
- Information regarding Toilets requirements
- Information regarding Water requirements
- Information regarding Pyrotechnics requirements
- Draft Site Plan
- · Access and Impact on surrounding area
- Sustainability Measures
- Accessibility and Inclusivity Measures

#### Step 2

Following submission, the application is assessed by Council's Event Coordinator and or Manager of Events. At a minimum the event application must satisfy the following:

- · Event policy requirements
- Waverley community strategic plan goals and deliverables
- Bondi Park, Beach and Pavilion Plan of Managements uses and purposes

#### Step 3

If the proposed event space / location is available and the impacts are deemed to be acceptable, subject to endorsement of executive manager and director, a report to Council is drafted.

#### Step 4

The application determined via a full Council meeting.

#### Step 5

Following approval, the license agreement is drafted.

#### Step 6

Subsequent to the abovementioned approval, the stakeholder management process commences prior to commencement.

#### 2. ASSESSMENT

#### 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State Environmental Planning Policies (SEPPs), and development control plans.

#### 2.1.1. Heritage Act 1977

Bondi Beach and Park is listed on the State Heritage register and this triggers the requirement to obtain approval from the Office of Environment and Heritage (Heritage Council) in accordance with s58 of the

Heritage Act 1977. Development requiring approval under Section 60 of the Heritage Act is categorised as integrated development under the Environmental Planning & Assessment Act 1979.

Certain developments are exempt from the need to obtain approval under section 60. The Site Specific Exemptions for Bondi Beach Cultural Landscape dated 23 May 2008, list the following as exempt from the need to obtain approval under the Heritage Act 1977:

- Activities undertaken in accordance with the Bondi Park and Pavilion Plan of Management adopted under the provisions of section 114 of the Crown Lands Act 1989, by the Honourable Kim Yeadon MP on 24 November 1995.
- Management of temporary events:
  - Temporary use of sections of the Bondi Beach area, including Bondi Surf Pavilion, Bondi Surf Bathers Life Saving Club, North Bondi SLSC and Bondi Park, temporary road closures and the installation of temporary buildings, structures, fencing, facilities, exhibitions, artworks, crowd control barriers, stages, lighting, sound and public address equipment and signage for a period not exceeding 6 months where Waverley Council is satisfied that the activity will not affect critical views to and from Bondi Beach or materially affect the heritage significance of the listed area as a whole or the area in which the temporary events are to be undertaken.

The proposal for events to be held at Bondi Beach and Park is considered to satisfy the above exemption for temporary events and the development application does not require a separate approval under the Heritage Act 1977.

#### 2.1.2. Crown Lands Management (CLM) Act 2016

The CLM Act 2016 introduced significant changes to the management of Crown Land in NSW. Specifically, Councils now manage their dedicated or reserved land as if it were public land under the Local Government Act 1993 (LG Act).

Bondi Beach and Park (No. 50048) and Biddigal Reserve (No. 94356) are Crown Land Reserves controlled by the State of NSW. As the appointed CLM, Waverley Council is responsible for the care, control and management of the park on behalf of the State.

The dedicated purpose of the site is for public recreational.

The CLM Act 2016 sets out the parameters for the use and management of Crown Lands. Clause 1.3 of the CLM Act 2016 identifies the objectives to ensure that Crown Land is managed for the benefit of the people of New South Wales.

The objects of this Act are—

- a) to provide for the ownership, use and management of the Crown land of New South Wales, and
- b) to provide clarity concerning the law applicable to Crown land, and
- c) to require environmental, social, cultural heritage and economic considerations to be taken into account in decision-making about Crown land, and
- d) to provide for the consistent, efficient, fair and transparent management of Crown land for the benefit of the people of New South Wales, and

- e) to facilitate the use of Crown land by the Aboriginal people of New South Wales because of the spiritual, social, cultural and economic importance of land to Aboriginal people and, where appropriate, to enable the co-management of dedicated or reserved Crown land, and
- f) to provide for the management of Crown land having regard to the principles of Crown land management.

The CLM Act 2016 and Local Government Act 1993 requires a Plan of Management for Bondi Beach. In 2020, Council updated their Plan of Management entitled 'Bondi Park Beach and Pavilion Plan of Management'. The objective of the plan is to outline appropriate management principles in conjunction with the Master Plan and to improve recreational facilities to meet future demand over the next ten years.

#### 2.1.3 Protection of the Environment Operations Act 1997 (POE Act 1997)

The *POE Act 1997* and the Protection of the Environment Operations (Noise Control) Regulation 2008 (Noise Control Regulation) provide the framework for managing unacceptable noise that may be generated at an event. In accordance with the *POE Act 1997* and Noise Control Regulation, local councils and the NSW Police are the appropriate regulatory authorities for any premises/activities in its local government area.

#### 2.1.4 Environmental Planning and Assessment Act 1979 (the Act)

The following matters are to be considered in the assessment of this DA under section 4.15 of the Act.

#### 2.1.4.1 SEPP (Biodiversity and Conservation) 2021

SEPP (Biodiversity and Conservation) 2021 regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the Biodiversity Conservation Act 2016.

The property lies within the coastal biodiversity corridor.

However, as this DA relates to the use for temporary events it is not applicable.

#### 2.1.4.2 SEPP (Resilience and Hazards) 2021

SEPP (Resilience and Hazards) 2021 applies to the subject site as it is wholly located within the Coastal Environment Area (i.e. defined by clause 13) and a Coastal Use Area (i.e. defined by clause 14).

Clause 13 of the SEPP states that development within the Coastal Environment Area must not be granted development consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the matters for consideration outlined in **Table 3** of this report.

Table 3: Clause 13 of SEPP (Coastal Management) 2018 Matters for Consideration Table

Matter for Consideration	Compliance	Comment
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Yes	The proposal is not expected to cause any changes to the natural environment.

Matter for Consideration	Compliance	Comment
(b) coastal environmental values and natural coastal processes,	Yes	The proposal is not expected to cause any changes to the natural environmental values and processes.
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	Yes	The water quality will not be affected by the proposal.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	Yes	The proposal is not expected to impact on marine vegetation and habitats as the works will be completed entirely within the site.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Yes	No public access ways will be affected by the proposal.
(f) Aboriginal cultural heritage, practices and places,	-	N/A
(g) the use of the surf zone.	Yes	There will be no impact to the use of the surf zone.

Clause 14 of the SEPP states that development consent must not be granted for development on land within the Coastal Use Area unless the consent authority has considered and is satisfied with the following matters for consideration outlined in **Table 4** of this report.

Table 4: Clause 14 of SEPP (Coastal Management) 2018 Matters for Consideration Table

Matter for Consideration	Compliance	Comment
(a)the consent authority has considered adverse impact on the following—	ed whether the p	roposed development is likely to cause an
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Yes	The proposal is not expected to cause disruption to access the foreshore, beach, headland or rock platform for members of the public, including persons with a disability.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	Yes	The proposal is not anticipated to cause overshadowing wind funnelling or loss of views to public places or the foreshores.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	Yes	The proposal is not anticipated to impact the visual amenity and scenic qualities to the coast.

Matter for Consideration	Compliance	Comment	
(iv) Aboriginal cultural heritage, practices and places,	-	N/A	
(v) cultural and built environment heritage, and	-	N/A	
(b)the consent authority is satisfied th	at:		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	Yes	The proposed development is considered to be of an appropriate size and scale.	
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	-	N/A	
(iii) if that impact cannot be minimised— the development will be managed to mitigate that impact, and	-	N/A	
(c)the consent authority has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.			
	Yes	The proposed development is of a similar bulk and scale to that of surrounding dwellings.	

#### 2.1.4.3 SEPP (Transport and Infrastructure) 2021

SEPP (Transport and Infrastructure) 2021, Division 12 Parks and other public reserves, permits development for a number of listed purposes if it is carried out by or on behalf of a Council without consent on a public reserve under the control of or vested in the Council.

It is considered that this SEPP may be applicable to some events that will occur in Bondi Beach and Park.

#### 2.1.4.4 SEPP (Exempt and Complying Development Codes) 2008

Exempt and Complying Development Code identifies development standards for tents, marquees, stages, platforms including maximum floor areas and hours of operation within the State.

Development standards contained within 'Division 3 Temporary Uses and Structures Exempt Development Code' are considered to cover the majority of events to be held at Bondi Beach and Park and subsequently allows for many of the intended events to be classified as 'exempt development'.

However, some medium and high impact events will fall under complying development standards, as per 'Part 4A General Development Code' and 'Subdivision 3 Tents, marquees or booths for community events' and 'Subdivision 4 Stages or platforms for community events'. In those instances, it is expected that a Complying Development Certificate will be obtained from Council or a Private Certifying Authority and relevant conditions of that Certificate shall be adhered to and details provided in the final Event Management and Delivery Plan (EMDP).

For a small number of high impact events, infrastructure beyond the standards in this SEPP will be sought. This relates to events akin to Bowlarama (grandstand) and concerts with large staging (Beach Fest, New Years Eve event) as the infrastructure sought at these events is larger than the standards for complying development. In those instances, as outlined in the Event Management and Delivery (OEMD) Guidelines, part of Phase 2 of the event planning process will require Council's Events Management to refer the relevant information contained in the draft EMDP to technical staff for comment and review. Such advice/conditions will then be imposed within the final EMDP and be adhered to.

#### 2.1.4.5 SEPP (Miscellaneous Consent Provisions) 2007

Part 2 of the Miscellaneous Consent Provisions SEPP identifies development standards for the erection of temporary structures that may be carried out only with development consent, except as otherwise provided by any other environmental planning instrument as exempt or complying development.

Although it is considered that the temporary event structures will satisfy exempt and complying development standards, if the proposed temporary structures for events at Bondi Beach and Park fail to satisfy these provisions, they will be subject to assessment in accordance with the Miscellaneous Consent Provisions SEPP.

#### 2.1.4.6 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 5: Waverley LEP 2012 Compliance Table** 

Provision	Compliance	Comment		
Part 1 Preliminary				
1.2 Aims of plan	Yes	The proposal is considered to be consistent with the aims of the plan as the proposal is for uses that promote tourism, entertainment, culture and community for the local and wider community in the Waverley Local Government Area (LGA).		
Part 2 Permitted or prohibited do	evelopment			
Land Use Table  RE1 Public Recreation Zone	Yes	The proposal is for the use of Bondi Beach and Park for temporary events.		
NET Fusile Recreation 2011e		The proposal is consistent with the zone objectives as:		
		<ul> <li>Bondi Beach and Park will continue to be used for public open space or recreational purposes,</li> </ul>		
		<ul> <li>the proposed events will provide opportunity for recreational activities within the park,</li> </ul>		
		the events held in the park will not impact on the natural environment and this is ensured though implementation of		

Provision	Compliance	Comment
		management measures and the events policy guidelines,
		<ul> <li>the holding of events in Bondi Beach and Park will not restrict public access to the coastline.</li> </ul>
		The proposed use is a continuation of an ongoing current use of the space and is permissible within the RE1 zone with consent.
2.8 Temporary use of land  (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.  (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive	Yes	The application seeks to continue the current use of Bondi Beach and Park for temporary events. The clause is applicable as the temporary events are not considered to compromise the future development of the land or have detrimental economic, social, amenity or environmental effects on the land.  No event is considered likely to be run for a period of more than 52 days and the cumulative period of events at Bondi Beach and Park will not exceed 6 months in duration over a 12 month period.  The proposal is consistent with clause 3 of this section as the use will not prejudice carrying out of any other development, the use will not adversely impact adjoining land or
days) in any period of 12 months.		amenity, environmental attributes, features or natural hazards and the land will be restored to its pre-existing condition before the event bump-out concludes. Temporary events will be managed through the Events Policy and OEMD Guidelines.
Part 5 Miscellaneous provisions		
5.7 Development below mean high water mark	Yes	The application seeks to use Bondi Beach and Park for temporary events. While the Tasman Sea is subject to tidal influence, the events are of a temporary nature in an outdoor environment where weather inclinations are part and parcel with this type of activity. As part of the event management, considerations to various weather conditions and risk assessments are given to ensure no adverse impacts from the proposed event.
5.9 Preservation of trees or vegetation	Yes	The proposal for temporary events does not require the removal or trimming of any trees or vegetation within the Bondi Beach and Park area.

Provision	Compliance	Comment
		Terms and conditions will be imposed as part of any event licence relating to tree management to ensure trees and vegetation are protected from damage within Bondi Park. A condition is recommended in this report regarding protection of vegetation.
5.10 Heritage conservation		Bondi Beach and Park is listed on the State Heritage Register as Bondi Beach Cultural Landscape.
		Under Schedule 5 Environmental Heritage of LEP 2012 Bondi Beach and Park is listed as:
		<ul> <li>an item of local significance,</li> <li>is within the 'Bondi Beach and Park Landscape Conservation Area ' and 'Bondi Beach Conservation Area— General', and</li> <li>contains an item of local archaeological significance, 'Open campsite and burial(s)'.</li> </ul>
	Yes	As discussed earlier in this report, under clause 57(2) of the Heritage Act an exemption is provided for the management and operation of temporary events at Bondi Beach and Park, provided the activity will not affect critical views to and from Bondi Beach or materially affect the heritage significance of the listed area as a whole or the area in which the temporary events are to be undertaken.
		Clause 5.10 (3) identifies circumstances where consent is not required including but not limited to, when the works is of a minor nature, the work does not adversely affect the heritage significance of the heritage item or is exempt development.
		It is expected that the majority of temporary events carried out will be classified as exempt development. For larger high impact events, it is considered the temporary nature of the events and that the events represent a historical continuation of the use of the park, coupled with the Events Policy and management and delivery guidelines, will ensure the overall heritage significance of the site is not compromised.

Provision	Compliance	Comment
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	Bondi Beach and park is identified as containing class 4 and class 5 acid sulfate soils. The application seeks approval for use of Bondi Beach and Park for temporary events and this development is not considered to disturb, expose or drain acid sulfate soil. It is a requirement of all temporary events that the area is returned to the condition it was in before the use.
Schedule 2 Exempt development		
Temporary events on public land and public roads and associated temporary structures  (1) Must take place on land	Yes	The use of temporary events will take place
owned by the Council or for which the Council has care, control and management (including Crown land) or a public road for which the Council is the roads authority under the Roads Act 1993.		on Bondi Beach and Park Reserve Trust (Reserve No. 500048) and Biddigal Reserve (within Ben Buckler Park / Ray O'Keefe Reserve) (Reserve No. 94356).
(2) Must not involve demolition.	Yes	The use of temporary events will not involve demolition.
(3) Must not involve overnight accommodation on bushfire prone land.	Yes	The use of temporary events will not involve overnight accommodation on bushfire prone land.
(4) Must not be conducted for more than 52 days (whether or not consecutive) in any period of 12 months.	Yes	No event is considered likely to be run for a period of more than 52 days and the cumulative period of events at Bondi Beach and Park will not exceed 6 months in duration over a 12 month period.
		Whilst it is noted that the proposal to use Bondi Beach and Park Reserve Trust (Reserve No. 500048) and Biddigal Reserve (within Ben Buckler Park / Ray O'Keefe Reserve) (Reserve No. 94356) for temporary events meets the exempt development outlined in this instruments. Waverley Council has applied for a DA to ensure all events are covered.

## 2.1.4.7 Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 6: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Waverley Council Events Policy requires event applicants to refer to Council's Waste Minimisation and Management Policy. The OEMD Guidelines stipulate that all High Impact events are to address waste management including a waste management plan to address all waste generated and removal arrangements.
		Appendix 2 of the OEMD Guidelines contains waste conditions that event organisers must comply with. This includes all rubbish generated as a result of the event to be removed from the venue by the event organisers, the use of recyclable materials and recycling waste containers at each event.
2. Energy and water conservation	Yes	While the Waverley DCP 2012 controls relate primarily to buildings and the reduction of energy and potable water usage, the events policy promotes sustainable practices including minimising energy use. The OEMD Guidelines state events are required to minimise non-renewable energy use through the use of renewable energy and fuel sources where possible.
3. Biodiversity	Yes	Bondi Park is identified as a habitat corridor in the DCP. The use of Bondi Park and Beach for temporary events is a continuation of the historical use of the site. The proposed temporary events do not require and are not permitted to remove any trees or vegetation. The temporary events are to be held for a period not exceeding 6 months in any year and as such the use is not considered to adversely impact the landscape character of the area or any wildlife movements.
4. Coastal risk management	Yes	Bondi Beach is identified as a coastal inundation risk lot. However, any development associated with an event will be of a temporary nature and contain temporary structures rather than a new building. As such a risk assessment is not considered necessary.

Development Control	Compliance	Comment
6. Stormwater	Yes	While this section of the Waverley DCP 2012 relates primarily to new buildings and managing the impact of development on the water cycle, Bondi Park contains a stormwater reuse system located near the skate park. All events are required to avoid damage to this infrastructure, which has a maximum load limit of 2 tonne, with vehicle access limited to small vehicles such as utes and vans. This is included as a standard condition in the OEMD Guidelines.
7. Accessibility and adaptability	Yes	All events are encouraged to be accessible for all and this is to be addressed by event organisers as part of the event licence process.
8. Transport	Yes	Council encourages the use of alternative methods of transport to Bondi Beach and Park given that car parking is one of the most critical planning and transport issues in Waverley.  The OEMD Guidelines include requirement for a Traffic and Transport Management Plan, depending on the size, nature and location of an event. This requirement is mandatory for all High Impact categorised events and includes referral and approval by Council's Traffic Committee prior to the event. Depending on the nature and size of the event liaison with government agencies including Roads and Maritime Services (RMS), Sydney Buses, Police may also be required.  It is considered that all transport traffic and car
		parking associated with any event staged at Bondi Beach and Park will be carefully managed by the Trust/ Council, Police and RMS in accordance with established procedures to ensure any impacts are minimise and traffic movements in the areas area not unduly disrupted.
10. Safety	Yes	The OEMD Guidelines include provisions relating to security and crowd management, emergency and risk management and engagement of security guards/ user paid Police.

## 2.1.4.8 Operational Policies

## Bondi Park, Beach and Pavilion Plan of Management 2021

The Trust/ Council is required to prepare a Plan of Management in accordance with the Crown Lands Act. The Plan of Management is a high level plan for Bondi Beach which guides development and

implementation of all other plans and strategies for the day to day and ongoing management of the area.

The proposed temporary events in Bondi Beach and Park are considered to be consistent with the objectives of this plan.

#### Events Policy and Outdoor Event Management and Delivery (OEMD) Guidelines

The Events Policy provides clear guidelines to ensure all events within Waverley LGA comply with the relevant legislation, standards, policies and industry codes of practice. The policy is made available to staff, event organisers and the public.

The OEMD Guidelines provides a step by step process of event organising in an outdoor space in the Waverley LGA, in conjunction with the Events Policy. The Guidelines identify requirements for high impact events, including an EMDP and the guidelines specify standard terms and conditions which apply to all events held in outdoor areas.

All temporary events under this DA are to occur in accordance with these Policy and Guideline documents. A condition is recommended within this report requiring all temporary events to comply with the Events Policy and OEMD Guidelines.

Below is a list of some key issues that may arise from the use of temporary events and how the OEMD Guidelines address it:

#### Venue Hire Agreement

A Venue Hire Agreement is required for the use of Council owned or managed outdoor venues to stage a temporary event.

A Venue Hire Agreement is a contractual agreement defining the agreed Terms and Conditions between the Hirer and Waverley Council. It specifies the venue, venue access times, standard hiring conditions and any agreed additional conditions. The Venue Hire Agreement is to be executed and required payments made before promotion for the event can commence.

Any alteration to the approved Venue Hire Agreement requires Council's approval in writing.

Any failure by the Event Organiser, associates or sub-contractors to comply with the Venue Hire Agreement will be a breach of the hire agreement.

#### Sale of Liquor

The sale or supply of alcohol at an event will require the Event Organiser to have the appropriate liquor licence for the event.

The type of liquor licence sought from the Liquor and Gaming Authority must be of a type to enable Council and NSW Police to provide submissions to the Liquor and Gaming Authority as to the imposition of any relevant licence conditions. The exercising of a "Caterer's Licence" will not be permissible (unless a special exemption is granted from the NSW Police.)

Event Organisers are recommended to contact the Local Police Command for further advice and to apply for a liquor licence (or exemption) a minimum of 28 days prior to the event.

#### Noise Mitigation and Management

Event Organisers may be required to engage acoustic experts to carry out the necessary risk assessment for the location to determine the impact of sound on the event's surrounds.

Event Organisers will be required to give consideration to the prevailing conditions of the venue and give consideration to:

- Citing and direction of speakers ie away from surrounding residences
- Predicted or prevailing weather conditions
- Type and fluctuations of sounds emitted eg film score, speeches, music
- Position of stage
- Size and power of speaker outlets.

All events involving amplified noise will be required to establish a telephone "Noise Hotline" The noise hotline shall be in operation and attended to (not voicemail reliant) throughout the full operational hours of the event, including rehearsals, sound tests, bump in and bump out times.

A Noise Management Plan is required for submission as part of the final EMDP.

For events where amplified entertainment is to be provided an Acoustic Report may be required to be submitted to Council as part of the final EMDP, a minimum of 4 weeks prior to the proposed event.

#### **Notification Requirements**

In consultation with the Event Organiser, Council will notify community precincts of the event a minimum of 3 weeks prior to the event. The notification will contain the dates and times of the event, bump in /out times, location of the event and patron numbers.

Event Organisers will be required to distribute notification to local residents and businesses a minimum of 7 days prior to the event date for those events involving amplified noise and/or traffic disruptions These notifications will include the "noise hotline number" and an email and physical address for the Event Organiser.

#### **Traffic Management**

Event Organisers are encouraged to have public transport integrated ticketing and promote the use of cycling, walking and carpooling to travel to and from the event.

Events will require the submission of a Traffic Management Plan (TMP) by the applicant if it involves:

- Full or partial closure of roads
- Alterations to regulatory signage, including parking signage
- Any restriction of access to either vehicles or pedestrians

#### Waste Management

The Event Organiser is responsible for ensuring the event site is clean and litter free throughout the site occupation period.

Event Organisers are responsible for the removal of all waste from the event site and will need to assess the number of mobile garbage bins required to sufficiently service the event; how the bins will be serviced and by whom.

Reusable, recyclable or compostable/biodegradable food and beverage ware is to be used.

The applicant will be required to supply organic waste recycling services if event food waste is likely to comprise of 20% or more of the total waste generated.

A waste management plan will be required in the final EMDP. The plan will address all waste removal arrangements for the event site and its immediate surrounds.

#### Time Limit of Consent

It is considered appropriate that the consent is time limited. This enables Council to review how the operation of the temporary events is occurring at Bondi Beach and Park and will enable a review of the supporting documentation, in particular the Events Policy and Outdoor Event Delivery and Management Guidelines. As such a condition will be imposed providing approval for the use of Bondi Beach and park for events under this consent for a period of 5 years from the date of the consent.

#### 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

#### 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

#### 2.4. Any Submissions

The application was notified and advertised for 28 days from 6 July – 10 August 2022 and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

No submissions were received.

#### 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

#### 3. REFERRALS

The following internal and external referral comments were sought:

#### 3.1. Public Art

An internal referral was sought from Council's Public Art Team. An email was sent to this team requesting they provide comments by 23 September 2022, and if no comment were received it would be assumed they did not object. No comment was received from this department.

#### 3.2. Public Domain

An internal referral was sought from Council's Public Domain Officer. An email was sent to this team requesting they provide comments by 23 September 2022, and if no comment were received it would be assumed they did not object. No comment was received from this department.

#### 3.3. Facilities

An internal referral was sought from Council's Facilities Team. An email was sent to this team requesting they provide comments by 23 September 2022, and if no comment were received it would be assumed they did not object. No comment was received from this department.

#### 3.4. Trees

An internal referral was sought from Council's Tree Officer, who recommended conditions of consent.

#### 3.5. Open Space

An internal referral was sought from Council's Open Space Officer, who recommended conditions of consent. These conditions related to the management of the events.

#### 3.6. Traffic and Development

An internal referral was sought from Council's Traffic Engineer, who recommended conditions of consent.

The Traffic Engineer recommended the Traffic Management Plans and Traffic Guidance Schemes (Traffic Control Plans) associated with events are to be submitted to Executive Manager, Infrastructure Services or delegate for approval of components within Waverley LGA.

The OEMD Guidelines include requirement for a Traffic and Transport Management Plan, depending on the size, nature and location of an event. This requirement is mandatory for all High Impact categorised events and includes referral and approval by Council's Traffic Committee prior to the event. Depending on the nature and size of the event liaison with government agencies including Roads and Maritime Services (RMS), Sydney Buses, Police may also be required.

#### 3.7. Health

An internal referral was sought from Council's Health Officer, who recommended conditions of consent.

#### 3.8. Sustainable Development

An internal referral was sought from Council's Sustainability Team. An email was sent to this team requesting they provide comments by 23 September 2022, and if no comment were received it would be assumed they did not object. No comment was received from this department.

#### 3.9. Waste

An internal referral was sought from Council's Waste Officer. An email was sent to this team requesting they provide comments by 23 September 2022, and if no comment were received it would be assumed they did not object. No comment was received from this department.

#### 3.10. Biodiversity

An internal referral was sought from Council's Biodiversity Officer, who recommended conditions of consent.

#### 3.11. Heritage

An internal referral was sought from Council's Heritage Officer. An email was sent to this team requesting they provide comments by 23 September 2022, and if no comment were received it would be assumed they did not object. No comment was received from this department.

#### 3.12. NSW Police

An external referral was sought from the NSW Police, who did not object to the proposal.

#### 3.13. Crown Lands

An external referral was sought from Crown Lands on 29 August 2022, with a request to respond within 14 days. Council received no response from Crown Lands and therefore assumed they did not object to the proposal.

#### 4. CONCLUSION

The DA seeks consent for the use of temporary events within Bondi Beach, Park and Biddigal Reserve. The temporary events cover a variety of events of size and scale from 500 people per day (i.e. Bondi Festival) up to 70,000 people (i.e. City to Surf).

No issues arose from the assessment of the DA and no submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

#### 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
J/smeille	
Joseph Somerville	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 13 October 2022	Date: 13 October 2022

#### Reason for WLPP referral:

1. Conflict of interest – Council Application

### APPENDIX A – CONDITIONS OF CONSENT

#### A. APPROVED DEVELOPMENT

#### 1. APPROVED DEVELOPMENT

All proposed events are to be in accordance with the requirements of the 'Waverley Council Events Policy', dated 18 August 2020 and 'Outdoor Events Management and Delivery Guidelines', dated October 2015, and any subsequent revisions to these documents.

#### 2. NUMBER OF EVENTS

Bondi Beach and Park can be used for temporary events for a period totalling no more than 6 months per calendar year. The occurrence of events within the 6 month period is detailed as follows:

- (a) Events with no more than 1,000 people per day may only be held up to 52 days per calendar year (excluding bump-in and bump-out);
- (b) Events between 1,000 and 5,000 people per day may only be held up to 30 days per calendar year (excluding bump-in and bump-out);
- (c) Events between 5,000 and 10,000 people per day may only be held up to 18 days per calendar year (excluding bump-in and bump-out); and
- (d) Events exceeding 10,000 people per day may be held for a maximum of 12 calendar days per year (excluding bump-in and bump-out).

#### 3. EVENTS OVER 10,000 PEOPLE

Condition 2(d) events must be approved by the elected Council and not under staff / officer delegation.

#### 4. TIME LIMITED CONSENT

Pursuant to Section 80A (1)(d) of the Environmental Planning and Assessment Act 1979, this consent is limited to a period of 5 years from the date of this consent.

A new Development Application must be submitted prior to the expiration of the time period if it is intended to continue the use. If an Application is not submitted within the specified time period the development subject to this consent must cease.

#### 5. TIMING OF EVENTS

All events are limited to the following maximum hours of operation:

- Monday to Thursday: Sunrise to 11.00pm
- Friday and Saturday: Sunrise to 12.00am (midnight)
- Sunday: Sunrise to 10.00pm.

An exception to the above hours applies for 31 December (New Years Eve), whereby an extension to operate until 2.00am on 1 January (New Years Day) may occur, subject to first obtaining a Venue Hire Agreement from Council (that is, approval to hold such event).

#### 6. **GENERAL EVENTS**

- (a) The events must be held in accordance with the requirements of Waverley Council's Events Policy 2020.
- (b) Prior to the commencement of events and/or markets that include the sale of food, a designated hand washing facilities must be provided in an area easily accessible to all food handlers. Hot and cold water must be delivered through a single outlet to a dedicated hand basin.
- (c) This approval does not permit the use of barbecue or charcoal type cooking appliances within any food stall.
- (d) All food stalls must comply with the requirements of the Food Act 2003 and the NSW Food Authorities "Food Handling Guidelines for Temporary Events".
- (e) Prior to the operation of any food stall the events organiser/food proprietor must obtain prior approval from Council's Environmental Health Section.
- (f) All temporary food stalls must be registered with the NSW Food Authority at www.foodnotify.nsw.gov.au prior to operation.
- (g) All food stalls must clearly display a copy of their approval fixed to the external side of the customer servery area.
- (h) All food stalls must be designed and erected to prevent public access between them. This is necessary for food protection and public safety. Children are not permitted to enter a food stall.
- (i) All food stalls must be designed to the following minimum standard of construction:
  - i. preparation and servery areas to be fully enclosed on three sides;
  - ii. the entire food stall is to be adequately screened to reduce the risk of food contamination and to restrict public access for safety reasons;
  - iii. walls to be of "polytarp" or similar non-absorbent material, and able to be easily cleaned. The framework of the wall panels should support the fabric taut and rigid. No part of the walls should flap in the breeze or be otherwise insecure;
  - iv. the ceiling is to be of similar construction to the walls;
  - v. the whole structure is to be securely fixed together when assembled and be secured against wind loadings.
  - (j) No butcher's meat, smallgoods, uncooked fermented manufactured meats, raw poultry or wholesaling/processing meats, poultry, dairy products, seafood are to be sold without the prior consent of the NSW Food Authority.
  - (k) All stalls where cooking or heating processes are undertaken must supply a fire extinguisher and fire blanket.
  - (I) Adequate sanitary facilities must be provided for stall holders, operators and organisers of community events in accordance with the requirements of the NCC (Building Code of Australia).
  - (m) All food stalls selling, preparing or storing potentially hazardous foods must provide facilities that are capable of maintaining temperature control. Temperature control means below 50C or above 600C.

- (n) All food stalls that handle potentially hazardous foods are required to have a readily accessible, accurate, probe type thermometer.
- (o) Any sullage/wastewater arising from the washing of hands must be discharged to the sewer in accordance with the requirements of Sydney Water.
- (p) An adequate supply of liquid soap and single use towels must be provided as close as practical to the hand washing facility.
- (q) No stalls are to carry out hairdressing, beauty and/or skin penetration procedures without the prior consent of Council's Environmental Health Section.

#### 6. LIQUOR SALE / SUPPLY / CONSUMPTION

No liquor may be sold, supplied or consumed on the premises except with the approval and authorisation from the relevant Liquor Authority.

#### 7. USE OF BONDI BEACH AND PARK

This consent applies to the use of Bondi Beach and Bondi Parkland only, as bordered by Ramsgate Avenue to the north-east, Campbell Parade to the north and north-west and Notts Avenue to the south.

This approval does not override any development consent for the use and operation of the public buildings contained within this area, including the Bondi Pavilion and associated courtyard, Bondi SLSC and North Bondi SLSC. In this regard, the patron capacity for these buildings is limited to the maximum number of persons for that premises as permitted under the independent and separate development consent. The capacity stipulated in the separate consent shall be adhered to at all time.

#### 8. STRUCTURAL CERTIFICATION FOR TEMPORARY STRUCTURES

- (a) All temporary structures shall be adequately secured to the ground against wind forces to protect the public safety.
- (b) All temporary structures shall be registered with Workcover as required, and inspection on the installation shall be carried out by a certified engineer with satisfactory certificates provided to Council prior to commencement of the event.

#### 9. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

All site works complying with the occupational health and safety requirements of WorkCover NSW, including construction and operation of all scaffolding, staging, rides and temporary structures and any fireworks/pyrotechnics display.

#### 10. VEGETATION PROTECTION

- (a) Where there is potential for ground surfaces to be damaged, ground surface protection matting shall be suitable for the proposed loads and vehicle types.
- (b) No tree canopy is to be damaged or pruned as a result of the removal or erection of temporary structures.

#### 11. NOISE – NOISE MANAGEMENT PLAN

- (a) Any temporary events must not result in the transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 at the nearest affected receiver.
- (b) A suitable noise management plan must be submitted to Council for approval prior to any events detailing the siting/direction of the stage and speakers, the size and power output of speakers, community consultation (including the provision of a contact number of a responsible person authorised by the organizer to discuss any noise issues associated with the event), and instructions to engineers for sound control.

#### (c) Noise Limiters:

- All amplification equipment used at the event must be controlled by a root mean square (RMS) noise limiter, calibrated by an acoustic engineer. The equipment must be tamper proof and only operable by the management or their nominee.
- ii. All on-stage and front of house sound equipment must be connected in such a manner to the one system so that the noise levels produced can be effectively controlled by the noise limiter referred to above and the house mixer/sound engineer.

#### 12. NOISE EMISSIONS

The use of the site/area shall not give rise to the Transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.

#### IMPORTANT ADDITIONAL INFORMATION

For events providing infrastructure that is not 'exempt development' and is not 'complying development', the Environmental Planning and Assessment Act 1979 requires you to:

- 1. Obtain a Construction Certificate prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier must obtain Council's approval to certain conditions of this development consent, where indicated before issuing the Construction Certificate.
- 2. Nominate a Principal Certifying Authority (PCA) which may be either Council or an accredited certifier and notify Council of that appointment. You cannot lawfully commence works without complying with this requirement.
- 3. Give Council at least two days notice of your intention to commence the erection of a building/structure before commencing construction works. You cannot lawfully commence works without complying with this requirement.
- 4. Obtain an Occupation Certificate before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

You may also need to:

5. Lodge an Application for Approval under Section 68 of the Local Government Act 1993 for an activity under that Act, including the erection of a hoarding.

- 7. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 2004.
- 9. Carry out critical stage inspections in accordance with Section 1 09E of the EP&A Act 1979 and clauses 162A, 1628 and 163 of the EP&A Regulation 2000.

#### **Advisory Matters**

#### **Sydney Water Requirements**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

#### **Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

#### **Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### **Events**

All Events that will have an impact of parking or traffic arrangements must be referred to Council Traffic Manager for review, reporting to Traffic Committee, approval and payment of appropriate fees and charges.

- a) Low Impact Events should have further categorisation. 1 Gatherings less than 50 patrons. 2 Gathering greater than 50 to 200 patrons.
- b) All event from Low 2 to High Category must obtain an event permit / short-term lease agreement.
- c) Any Event where alcoholic beverages are being sold or served must apply for a license.
- d) Any Event with more than 2000 patrons per day where alcoholic beverages are being sold or served must apply and lodge a large scale commercial event limited licence special event from via Services NSW https://www.service.nsw.gov.au/transaction/apply-limited-liquor-licence-special-event. An approved licence must be submitted prior to the commencement of the Event
- e) Events must align with the core objectives of the dedication of the reserve for public recreation as per the Crown Lands Management Act and Bondi Park, Beach and Pavilion Plan of Management June 2021

- f) Events must align with Section 9.8 Lease, licence and other estates authorisation of the Bondi Park, Beach and Pavilion Plan of Management June 2021
- g) Events must not cause damage to existing heritage fabric as identified in the Bondi Beach Cultural Landscape Conservation Management Plan (refer Trim Doc D19/27631).
- h) Events must support the cultural heritage objectives for the site as identified in the Bondi Beach Cultural Landscape Conservation Management Plan.
- i) Events must align with the Bondi Beach Cultural Landscape Conservation Management Plan acknowledges and supports the use of the park and beach as a place for events and celebrations as a significant ongoing use and part of the cultural significance of the State and Nationally listed Bondi Beach Cultural Landscape Section 6.4 Significant Continuing Uses Table 6.3
- j) Events to adhere with Section 8.0 Conservation Policy of the Bondi Beach Cultural Landscape Conservation Management Plan. Events must adhere to address the following sections, including but not limited to:
  - i. 2.0 BBCL Management
  - ii. 2.4 Risk Management
  - iii. 2.6 Works Approvals and Assessing Heritage Impact
    - 2.6.7 Consider and minimise the heritage impact of activities and events including providing guidance when permits or licences are granted.
  - iv. 3.0 Use (including Events)
  - v. 3.2 Traditional / Long Standing Uses
    - 3.2.3 Encourage activities reflecting social significance (community esteem) such as history talks, community events, re-creations, commemorative competitions, displays, etc.
  - vi. 3.3 Compatible New Uses
    - 3.3.1 Allow compatible use of the BBCL including for events.
  - vii. 3.5 Change of Use, Owner or Occupier
    - 3.5.5 Minimise intervention in the physical fabric for or by temporary users. The heritage impact of temporary structures and events should be assessed.
  - viii. 3.6 Briefing Users and Contractors About Heritage of the CMP
    - ix. 7.3 Infrastructure and Signage
    - x. 8.2 New Work to Heritage Structures
    - xi. 8.8 Artwork on Site
      - 8.8.1 Encourage and support the temporary art events and installations such as Sculpture by the Sea.
  - xii. 9.0 Tourism and Interpretation
  - xiii. 9.1 Tourist Activity and Visitation
    - 9.1.2 Encourage participation by visitors and the local community in guided activities and special events that allow a more in depth understanding of the place.
  - xiv. 9.4 Branding
- k) Any Events to be held within the Pavilion are to adhere to the Bondi Pavilion Conservation Management Plan.



## OUTDOOR EVENTS MANAGEMENT AND DELIVERY GUIDELINES

OCTOBER 2015







LINKS TO COMMUNITY STRATEGIC PLAN AND DELIVERY PROGRAM:

Direction C6: Arts and cultural activities foster an involved community and a

creative environment

Strategy: Enrich the community's cultural life and support lifelong

learning through a variety of cultural events and activities,

balancing the needs of residents and visitors

**Direction: L1** Waverley's economy is vibrant and robust and supports the creation of a variety of jobs and business opportunities

Strategy: Create vibrant public places through the support and provision

of a range of community and visitor related activities

**Direction: L2** Visitors and tourists are welcomed and make a positive

contribution to the community and economy

Develop and implement tourism initiatives to benefit both the Strategy1:

local economy and community

AUTHOR: Lorna Bussell

PROGRAM: Enriching Waverley

DATE APPROVED: October 2015

TRIM FILE REF: A11 0687



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# **Section 1: Introduction**

Waverley Council recognises the need to balance the contribution events make to the culture, character and economy of Waverley with the potential impact of events on the surrounding locality.

These Guidelines have been developed to provide a step by step process of event organising in an outdoor space in the Waverley Local Government Area to ensure the delivery of safe, accessible, sustainable and vibrant events that meet all relevant legal and regulatory requirements, while minimising the associated impact on the natural, built and social environments.

It is recommended these guidelines be read in conjunction with Council's Events Policy.

# **Section 2: Venue hire application process**

All Event Organisers<sup>1</sup> are required to submit a Venue Hire Application Form for the use of Council owned or managed public spaces (parks, open spaces, pedestrian malls and beaches) to hold a temporary event.

#### Application

All Event Organisers are required to submit a Venue Hire Application providing the following information about the event being proposed to be held in an outdoor venue<sup>2</sup>.

- Venue requested (check website for location suitability for proposed event)
- Purpose of event
- **Hours of Operation**
- Number of event participants
- Date(s) and time of proposed event
- Proposed event infrastructure / structures
- Organiser contact and capability/experience details
- Contractor details
- Traffic impact
- Bump in / out requirement
- Parking requirements

Approval for your event will be subject to Terms and Conditions as contained in these Guidelines.

Within 5 working days of lodging a Venue Hire Application Form, a Council Event Officer will contact the applicant to discuss the proposed event.

<sup>&</sup>lt;sup>1</sup> Event Organiser means the person or organisation seeking to undertake an event on Council owned or managed public spaces (outdoor venues).

 $<sup>^2</sup>$  Outdoor Venue means any public space including parks, beaches and pedestrian malls, owned or managed by Waverley Council.



#### Assessment

All events to be conducted on Council owned or managed outdoor venues need to be controlled to various degrees dependent on their impact and associated risk impacts, from a small community event with little or no infrastructure/equipment to larger more complex events that require detailed and comprehensive planning and management.

Assessment of application for the use of a Council outdoor venue to stage a temporary event will be based on the following criteria:

#### 1. Suitability of the event

As contained in Council's Events Policy, the assessment of the suitability of the event will have consideration to whether it:

- delivers either recreational, social, cultural, education or information opportunities for residents and visitors to participate
- supports and contributes to the well-being of residents and visitors
- supports and includes people from all sections of the community
- supports and respects the unique identity of Waverley and its culture
- recognises occasions of historical, social or cultural significance
- contributes to the local economy, businesses and tourism

#### 2. Availability and suitability of the location

Aspects such as the size of the event and the availability of the venue will be considered. In some instances, the proposed use of the venue may be rejected as unsuitable. Where possible, alternatives venues may be suggested.

#### 3. Impact of the event on location and surrounds.

Consideration will be given to the category of impact of the event having regard to safety and risk management to the natural, built and social environment.

#### 4. Development consent requirements

Dependent on the type of temporary event proposed and the structures / infrastructure involved, these may not be covered under existing consent approvals 3 and may require the submission of a separate DA.

<sup>&</sup>lt;sup>3</sup> Existing development consents for various buildings or open spaces Blanket DA for use of Bondi Beach and parklands for temporary events State Environmental Planning Policy (Exempt and Complying Development) 2008.



#### **Event Impact Categories**

The temporary use of an outdoor venue to stage an event will be assessed as either low, medium or high impact and managed by the application of relevant Terms and Conditions in the Venue Hire Agreement (VHA) issued. The assessment criteria include the type/style of event, patron numbers and demographics, event duration and size of event infrastructure<sup>4</sup>. The table below contains guidelines as to the criteria to be used to determine the impact of an event as either low, medium or high.

**Table 1: Event impact category criteria** 

Event Impact	Impact criteria	Examples
Category		
Low Impact	☐ Held between 6am and 6pm ☐ Infrastructure footprint under <50m² <sup>5</sup> ☐ Involves minimal/low level amplification <sup>6</sup>	<ul> <li>Outdoor Wedding ceremony</li> <li>Filming/photography shoots</li> <li>Small commercial activations</li> <li>Small charity activation</li> </ul>
Medium Impact	☐ Involves between 100 and 1000 patrons ☐ Finishes between 6pm and 9pm ☐ Infrastructure footprint between 50m²- 150m² ☐ Involves food and / or non-Liquor service or sales ☐ Involves low level amplification²	<ul> <li>Community markets</li> <li>Surf club events</li> <li>Religious celebrations</li> <li>Charity fund raisers</li> </ul>
High Impact	☐ Involves more than 1000 patrons ☐ Finishes after 9.00 pm on any day ☐ Infrastructure footprint exceeds 150m² ☐ Includes Liquor sale/supply for consumption ☐ Involves amplified noise, music, entertainment or activities³ ☐ Includes fencing, stage, audio/visual equipment, tiered seating ☐ Requires road closures or otherwise impacts on the normal use of roads and/or requires special/additional public transport provisions ☐ Involves fireworks/pyrotechnics	<ul> <li>Public events</li> <li>Community festivals</li> <li>Corporate functions</li> <li>Sporting events</li> <li>Music festivals</li> <li>Community festivals</li> <li>Public celebrations</li> </ul>

<sup>&</sup>lt;sup>4</sup> Event Infrastructure means structures and facilities needed for the event including, but not limited to, scaffolding, staging, seating, marquees, stalls, sound and lighting towers, amusement devices etc.

<sup>&</sup>lt;sup>5</sup> Appendix 1: State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for Temporary uses and structures – Quick Reference Guide

<sup>&</sup>lt;sup>6</sup> Minimal/low level amplification means to produce amplification of devices including but not limited to; non-commercial entertainment speakers, music, loudspeakers, PA system or microphone that are inaudible at a radius of 50m from the device and operated between 6am and 9pm.

<sup>&</sup>lt;sup>7</sup> Amplified noise means use of any equipment/devices that amplifies noise, including though not limited to; entertainment speakers, DJ, loudspeaker, PA system.



For events that do require a separate development application, this may take up to 26 weeks prior to the event to process.

#### **Venue Hire Agreement (VHA)**

A Venue Hire Agreement is required for the use of Council owned or managed outdoor venues to stage a temporary event.

A Venue Hire Agreement is a contractual agreement defining the agreed Terms and Conditions between the Hirer and Waverley Council. It specifies the venue, venue access times, standard hiring conditions and any agreed additional conditions. The Venue Hire Agreement is to be executed and required payments made before promotion for the event can commence.

Any alteration to the approved Venue Hire Agreement requires Council's approval in writing. Any failure by the Event Organiser, associates or sub-contractors to comply with the Venue Hire Agreement will be a breach of the hire agreement.

#### Low to Medium Impact events assessment and approval timeline

Council requires the following minimum timeframes for the hire of outdoor venues to stage a low to medium impact event:

Low Impact Event –	Min 5 working days
Medium Impact Event	Min 8 weeks

Any applications received less than the minimum standards above may be rejected.

A VHA will be issued detailing the relevant Terms and Conditions to be met as indicated by the Council Event Officer and agreed to by the applicant.

A signed VHA and payment of required fees are to be returned to Council before the event can proceed.

The Event must proceed in accordance with compliance requirements contained in the Venue Use Agreement.

#### High Impact Event assessment, approval and delivery process and timeline

The final approval for a High Impact Event to proceed remains subject to satisfactory development, submission and approval of an Event Management and Delivery Plan.

Section 3 below details the 6 phrases for the assessment, approval and delivery of a High Impact Event and indicative minimum timeframes applicable.

Outdoor Event Management and Delivery Guidelines, October 2015. Page 7



# **Section 3: High Impact Events**

# Flowchart: High Impact Event Assessment, Approval and Delivery Phases

Phase 1: Event assessment and agency consultations
Venue Hire Application for High Impact Event submitted (min 24 weeks)
Lodgement of a Development Application (if required) (min 24 weeks)
Notification and meetings with relevant agencies (min 20 weeks)
Eg Local Police Command, Transport for NSW, Roads and Maritime Services
Venue Hire Agreement issued with terms and conditions (min 18 weeks)
Venue Hire Agreement signed and 25% hire fee non-refundable deposit paid (min 16 weeks)
lacksquare
Phase 2: Event Management and Delivery Plan development and lodgement
Draft Event Management & Delivery Plan lodged (min 14 weeks)
Draft EMDP circulated to agencies and internal experts for comment.
Further agency meetings organised and chaired by Council's Event Team as required.
Applicable permits and services applications
Traffic management plan (min 12 weeks)
NSW User Charge Police (min 8 weeks)
Liquor Licence (min 8 weeks)
Temporary Food Vending Permit (min 6 weeks)
Final Event Management & Delivery Plan/ balance of fees lodged for approval
(min 4 weeks)
Notifications
Local Precinct Committee(s) (Council) (min 3 weeks)
Local residents and Businesses (min 7 days)
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Phase 3: Event bump-in
Pre site occupation inspection min of 24hrs prior to bump-in
Bump-in period
Compliance signed off min of 12 hrs prior to site opening to public
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Phase 4 – Event compliance
Event compliance monitoring by Council Officer
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Phase 5 – Event bump Out
Breakdown of infrastructure, clean up and repair of any damages
Post event site inspection within 24 hrs of completion of bump out
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Phase 6 – Post event debrief
De brief meeting after event a maximum of 2 weeks post event.
Payment of any additional or damage costs incurred
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Any applications received less than the indicative minimum standards above may be rejected.



#### **High Impact Event Delivery Phases**

#### Phase 1: Event Assessment and agency consultation

Prior to the issuing of a Venue Hire Agreement (VHA) for a High Impact Event, Event Organisers may be required to attend a meeting organised and chaired by a Council Event Officer with the local police command and other relevant agencies. The purpose of these meetings is to provide the Event Organiser with an understanding of the concerns and subsequent requirements in relation to security, safety, crowd and liquor management and traffic management that agencies may have in relation to the proposed event. The agencies will be requested to email their comments and recommendations to Council within 14 days of the meeting.

On receipt of the agencies' recommendations, Council will make a determination whether to refuse or proceed with the issuing of a Venue Hire Agreement detailing the relevant Terms and Conditions to be met by an Event Organiser including recommendations made by relevant agencies.

The Event Organiser confirms acceptance of the Terms and Conditions by returning a signed Venue Hire Agreement and relevant non-refundable fee to proceed to Phase 2.

The final approval for the event to proceed remains subject to satisfactory development and submission of an Event Management and Delivery Plan with all appropriate approvals.

#### Phase 2: Event Management and Delivery Plan development and lodgement

A minimum of 16 weeks prior to the proposed event commencement date, the Event Organiser will need to submit a draft Event Management and Delivery Plan (EMDP) and proposed site layout to Council's Event Officer indicating how the Terms and Conditions of the VHA are to be met/implemented

The draft EMDP will be circulated to relevant agencies and Council technical officers for comment/input.

Further agency meetings will be organised and chaired by Council's Event Officer as required to assist the Event Organiser to develop the final EMDP to be submitted for approval by Council.

A minimum of 4 weeks prior to the event, the Event Organiser must submit a final Event Management and Delivery Plan for approval by Council.

Any alteration to the approved Event Management and Delivery Plan requires Council's approval in writing.

Any failure by the Event Organiser, associates or sub-contractors to comply with, or implement any term or condition of the Event Management and Delivery Plan will be a breach of their event approval.

A copy of he approved Event Management and Delivery Plan is to be available during the occupation and made available on request to Council Officers and Police.

#### Phase 3: Event Bump In

A pre site inspection will be carried out a minimum of 24hrs prior to bump-in of event infrastructure and site condition noted and signed off by Council and Event Organiser.

All compliance requirements in the VHA must be signed off by Council's Event officer



#### **Phase 4: Event compliance**

Event to be conducted in accordance with all relevant Terms and Conditions for use in the Venue Hire Agreement and approved Event Management and Delivery Plan.

#### Phase 5: Event bump-out

Post site occupation period inspection to be arranged with Council's Event Officer no later than 24hours after site vacation.

#### Phase 6: Post event debrief

A post event debrief may be convened with relevant agencies and Council Officers to evaluate the success of the event and ways to improve event delivery into the future.

#### **Event Management and Delivery Plan (EMPD) contents**

All High Impact Events are required to submit an Event Management and Delivery Plan (EMDP) for approval by Council a minimum of 4 weeks prior to the commencement date of the event in order for the event to proceed. A draft EMDP is required a minimum of 16 weeks prior to the proposed event.

The final EMDP will demonstrate that all the Terms and Conditions applied to the Venue Hire Agreement have been met, and shall include (though not limited to) the following information and details:

- 1. Event name, Event Organiser and contact details (business and mobile number).
- 2. Public liability insurance details.
- 3. Event start and finishing times; event program and activities eg stalls, music, and sponsorship activities.
- 4. Total event occupation period of the event site including bump in and bump out periods.
- 5. Number of participants present at the event including patrons, event crew, media and sponsors.
- 6. Event's target market and demographics.
- 7. Details of any relevant development consent (DA).
- 8. Event entry fees, number of tickets in each category level and allocated complimentary tickets
- 9. Contracted subcontractors, sponsors and/or partners of the event.
- 10. Site plan to scale illustrating the location of all event infrastructure, entry and egress points, accessibility entry and exit and emergency exits.
- 11. Details of all infrastructure, structural components (including to scale plans) and electrical equipment to be provided, accompanied by certifications from suitably qualified experts (BCA consultant, Structural engineers, Building Surveyor).
- 12. Community notifications and complaint management plan.
- 13. Traffic, transport and pedestrian management plan
- 14. Signage plan detailing the number, type, location and design of temporary signage and/or branding.
- 15. Power and lighting details, location of power and lighting sources and measures to be employed to reduce the events environmental footprint.
- 16. Details of the marketing and media key messaging and images to be used.
- 17. Liquor and drug minimisation and management plan.
- 18. First aid, public health and amenities (including accessible toilets) plan
- 19. Event Waste minimisation, management and cleaning plan
- 20. Noise management plan including an Acoustic Report where relevant
- 21. Security and crowd management plan
- 22. Risk and Emergency management plan



- 23. Food and beverage details of what will be available for sale/supply/consumption.
- 24. Any other matters deemed to be required to be included in such a document for implementation and delivery of the event.

#### **Event Management and Delivery Plan considerations**

#### **Alcohol Provision or Sale**

The sale or supply of alcohol at an event will require the Event Organiser to have the appropriate liquor licence for the event.

The type of liquor licence sought from ILGA must be of a type to enable Council and NSW Police to provide submissions to ILGA as to the imposition of any relevant licence conditions. The exercising of a "Caterer's Licence" will not be permissible (unless a special exemption is granted from the NSW Police.)

Event Organisers are recommended to contact the Local Police Command for further advice and to apply for a liquor licence (or exemption) a minimum of 28 days prior to the event.

#### **Building Code of Australia (Infrastructure Integrity)**

All temporary event infrastructure<sup>8</sup> is to be constructed in accordance with the requirements of the Building Code of Australia and certified as structurally adequate for the intended purpose in accordance with the Building Code of Australia and relevant Australian Standards prior to occupation, operation or use.

Where infrastructure is sought outside the criteria contained in (a) or (b) below, details of the proposed structure(s) will be referred to Council's Director, Waverley Future (or delegate) a minimum of 8 weeks prior to event date for review and comment to ensure compliance with relevant legislation, including the Building Code of Australia. Some structures may require a Construction Certificate (Part 4A Certificate). Any conditions imposed shall be incorporated into the final EMDP.

Detailed to scale plans and Certificates of Compliance will be required for all infrastructure, structural components and electrical components.

#### Development consent (development application or complying development certificate)

There are three forms of development consent applicable to an event:

(a) Exempt development as classified in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008<sup>9</sup>

If the event falls under the criteria of 'exempt development' then no further application is required.

**(b)Complying Development** as classified in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

If the event falls under 'complying development' then a Complying Development Certificate needs to be obtained from Council or a Principal Certifying Authority and relevant conditions of that Certificate shall be adhered to and details provided in the EMDP

#### (c) Development Applications

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<sup>&</sup>lt;sup>8</sup> Event Infrastructure means structures and facilities needed for the event including, but not limited to, scaffolding, staging, seating, marquees, stalls, sound and lighting towers, amusement devices etc.

<sup>&</sup>lt;sup>9</sup> Appendix 1: State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for Temporary uses and structures – Quick Reference Guide



All other forms require development consent and a development application required. Details of the DA in place, or details of a DA submitted to Council for assessment should be detailed in the EMDP. Note, Council owned and managed buildings and some open spaces have existing development consents that will need to be adhered to. Council's Events team can assist with this.

#### **Emergency and risk management**

An Emergency and Risk Management Plan which complies with AS 3745 is required in the final EMDP detailing the strategies to be applied by the Event Organiser to ensure adequate risk, emergency and crowd management is in place. The Emergency and Risk Management Plan will be required to include emergency and evacuation procedures for the event, including, but not limited to:

- (a) the location of all exits, fire protection and safety equipment
- (b) the number and location of fire safety officers present on site
- (c) injury to any person, including patrons, members of the public or staff
- (d) patrons affected by heat and dehydration
- (e) power failure
- (f) bomb or threat of terrorism
- (g) fire
- (h) high winds or storm
- (i) crowd crush

#### **Noise Mitigation and Management**

Each event has a unique sound layout configuration needs. Event Organisers may be required to engage acoustic experts to carry out the necessary risk assessment for the location to determine the impact of sound on the event's surrounds. (See Acoustic Report below).

Event Organisers will be required to give consideration to the prevailing conditions of the venue and give consideration to:

- Citing and direction of speakers ie away from surrounding residences
- Predicted or prevailing weather conditions
- Type and fluctuations of sounds emitted eg film score, speeches, music
- Position of stage
- Size and power of speaker outlets.

All events involving amplified noise will be required to establish a telephone "Noise Hotline" The noise hotline shall be in operation and attended to (not voicemail reliant) throughout the full operational hours of the event, including rehearsals, sound tests, bump in and bump out times.

A Noise Management Plan is required for submission as part of the final EMDP and shall include the following:

- (a) Preventive management: details of mitigation of noise impact prior to the event such as stage orientation, barriers, sound limitation devices and community notification;
- (b) Reactive management: noise monitoring in real time (travellers and fixed locations), use of trigger levels set below limits, modes of communication between monitors and operators, noise mitigation in real time, complaints handling in real time and communication modes between complaints handling and operators.



- (c) Siting and direction of speakers, predicted or prevailing weather conditions (particularly wind), type of music, location of nearby residences, position of stage and the size and power output of speakers.
- (d) Review: assessing the performance of:
  - complaint management in real time
  - monitoring in real time
  - mitigation strategies and actions taken

#### **Acoustic Report**

For events where amplified entertainment is to be provided an Acoustic Report may be required to be submitted to Council as part of the final EMDP, a minimum of 4 weeks prior to the proposed event.

The acoustic investigations and Report shall cover but not limited to:

- (a) The identification of sensitive noise receivers potentially impacted by the proposal
- (b) The quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and in accordance with relevant Australian Standards and the NSW Environment Protection Authority (EPA) requirements)
- (c) The formation of a suitable assessment criteria having regard to the guidelines contained in the NSW EPA Industrial Noise Policy
- (d) The identification of operational noise producing facets of the development and the subsequent predictions of resultant noise at the identified sensitive receiver locations from the operation of the use. Where appropriate the predication procedures are to be justified and include an evaluation of prevailing atmospheric conditions that may promote noise propagation.
- (e) A statement indicating that the use will comply with the relevant criteria together with details of acoustic control measures that will be incorporated into the use ill not create adverse noise impacts to surrounding environment.

Any recommendations made by the consultant are to be included in the final EMDP.

#### Temporary plant equipment

Where temporary plant and equipment eg generators and water pumps, is required, these are to be selected and located to ensure that total noise emissions from the temporary plant equipment does not exceed noise standards criteria. This may require the use of containerised silenced generators, acoustic screening and selective location of the temporary plant.

#### **Notifications**

In consultation with the Event Organiser, Council will notify community precincts of the event a minimum of 3 weeks prior to the event. The notification will contain the dates and times of the event, bump in /out times, location of the event and patron numbers.

Event Organisers will be required to distribute notification to local residents and businesses a minimum of 7 days prior to the event date for those events involving amplified noise and/or traffic disruptions These notifications will include the "noise hotline number" and an email and physical address for the Event Organiser.

A copy of the notification and area(s) to be notified is to be included in the final Event Management and Delivery Plan.



#### Security

Event Organisers may be required to contract adequate Security guards to carry out, but not limited to, the following:

- (a) Protect the venue and its surrounding areas during the event to deter and prevent social nuisance in compliance with the Liquor Act 2007
- (b) Provide public safety
- (c) Direct non-event goers around the site area as required
- (d) Stop prohibited items from entering the event
- (e) Manage crowd access and exit procedures
- (f) Enforce all liquor licensing laws
- (g) Conduct bag checks at entry point to the event site

In addition, event organisers may be recommended to consider contracting "user charges" policing services to manage the potential impact of the event on the wider community. NSW Police Force (Eastern Suburbs Local Area Command) require at least 8 weeks advance notice prior to the event.

#### **Traffic Management**

Depending on the size, nature and location of an event, organisers may be required to ensure adequate consideration and provision has been made for traffic management and the use of public transport, including, but not limited to:

- Non-event pedestrian access around event site
- Impact on local traffic, public transport and parking

Event Organisers are encouraged to have public transport integrated ticketing and promote the use of cycling, walking and carpooling to travel to and from the event.

Events will require the submission of a Traffic Management Plan (TMP) by the applicant if it involves:

- Full or partial closure of roads
- Alterations to regulatory signage, including parking signage
- Any restriction of access to either vehicles or pedestrians

The category the event will be determined as defined in the Roads and Maritime Services (RMS) Guide to Traffic and Transport Management for Special Events (2006)<sup>10</sup>.

TMPs involving the regulation of traffic are to be forwarded to Council a minimum of 12 weeks<sup>11</sup> prior to the event for approval by the Local Traffic Committee. Any conditions placed on the TMP by the Traffic Committee, Council, and/or NSW Police Force and/or RMS are to be included in the final EMDP.

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<sup>&</sup>lt;sup>10</sup> Class 1: An event that impacts major traffic & transport systems and there is significant disruption to the non-event community. Eg affects a principal transport route.

Class 2: An event that impacts local traffic and transport systems and there is low scale disruption to the non-event community. Eg does not impact a principal transport route or a highway.

Class 3: An event with minimal impact on local roads and negligible impact on the non-event community.

Class 4: An event that is conducted entirely under Police control (but is not a protest or demonstration). For example: a small march conducted with a Police escort.

 $<sup>^{11}</sup>$  Local Traffic Committee id held monthly and agenda closes 2 weeks (minimum) prior to each meeting



#### A TMP should include:

- (a) Event details: Name, date, time, venue location, anticipated crowd size, event activities, venue description, existing facilities for access and any other relevant information.
- (b) Contact details: Name of organiser, contact person's name, title and phone number (business and mobile).
- (c) Contact details of contractor: Name of traffic management company, contact person's name, title and phone number (business and mobile).
- (d) Traffic management schedule: Date, time and event schedule.
- (e) Bump in/bump out traffic schedule: Vehicle delivery and pick up logistics.
- (f) Traffic diversion/redirection: Including details of road closures, detours, VMS signs and special event signs.
- (g) Access: Site map with access points for contractors, patrons, stallholders, entertainers, staff, VIPs, local businesses, residents and emergency vehicles.
- (h) Loading and unloading: Details about loading and unloading arrangements for contractors, stallholders, entertainers, staff, volunteers and patrons.
- (i) Parking: Details about parking arrangements for contractors, stallholders, entertainers, staff, volunteers and patrons.
- (j) Public safety: Notice of intention to hold a public gathering, liaison with police, security and first aid.
- (k) Notification: Advertising road closures and special event clearways, resident/business letterbox drop, public transport notification and marshalling.
- (I) Traffic control plans: Plans for each road closure point, use of paid police, RMS trained and accredited traffic controllers, use of traffic signal data, water filled barrier placement, change of traffic conditions and special event clearway towing management.
- (m) Contingency plan: For bad weather, accident on site, accident on route, breakdown of vehicles, security of participants and security of VIPs.

#### **Waste Management**

The Event Organiser is responsible for ensuring the event site is clean and litter free throughout the site occupation period.

Event Organisers is responsible for the removal of all waste from the event site and will need to assess the number of mobile garbage bins required to sufficiently service the event; how the bins will be serviced and by whom.

Reusable, recyclable or compostable/biodegradable food and beverage ware is to be used.

The applicant will be required to supply organic waste recycling services if event food waste is likely to comprise of 20% or more of the total waste generated.

A waste management plan will be required in the final EMDP. The plan will address all waste removal arrangements for the event site and its immediate surrounds.



#### Relevant permits and services

Event Organisers will be responsible for obtaining and any applicable fees for various permits and services required to comply with the Terms and Conditions of the VHA. These include though not limited to:

- Temporary food vending permit (Council)
- Temporary structures (including amusement devices) approvals (Council/Private Certifying Authority)
- Development applications (Council)
- Construction certificates for relevant event infrastructure
- Road closure approvals (Council Local Traffic Committee)
- RMS Aquatic Licence (Roads and Maritime Services)
- CASA permits for flying manned or unmanned air vehicles eg drones, flybys
- Pyro technicians licence (WorkCover)
- Liquor licence (Independent Liquor and Gaming Authority) applicable to the event.
- User pays police (police.nsw.gov.au/ services/user\_charges\_user\_pays\_police\_services)
- Sydney Buses (State Transit Authority)
- Road occupancy licence, special event clearways (Roads and Maritime Services)
- Taxi Council
- St John Ambulance or other first aid provider
- NSW Ambulance Service



# **Section 4: Appendices**

# Appendix 1: State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for Temporary uses and structures – Quick Reference Guide

	Exempt Development Standards (no planning approval under the NSW planning system required)		Complying Development Standards (complying development certificate (CDC) required)	
Development Standard and Development Type	Tents, marquees and booths	Stages and platforms	Tents, marquees and booths	Stages and platforms
	Cannot contain any tiered seating.	Must be erected at ground level.		
Maximum Height	Max wall height -4m. Max height from ground level – 6m	Max height above floor level – 2m	Max wall height- 6m Max height from ground level – 8m	Max height above floor level – 2m
Maximum floor area	Max floor area of 300m <sup>2</sup>	Max floor area of 50m <sup>2</sup>	Max floor are of 500m <sup>2</sup> per tent.  Max tent footprint – 1,000m <sup>2</sup>	Max floor are – 100m²
Event times	Mon-Thurs: 7.30am – 11.00pm Fri-Sat: 7.30am and 12.00pm Sun: 8.00am and 8.00pm		Fri-Sat: 7.30am and 12.00pm	
Minimum setback Waste	3m away from any boundary  Arrangement must be made for the removal of any event waste or recyclable materials		3m away from any boundary Arrangement must be made for the removal of any event waste or recyclable materials	



# Appendix 2: Sample Terms and Conditions for the hire and use of Council managed or owned Outdoor Venues

The Terms and Conditions contained below are Waverley Council's standard terms and conditions applicable to the use of a Council managed or owned outdoor venue for temporary events. Event Organisers are required to comply with the Terms and Conditions contained in their Venue Hire Agreement.

#### **General:**

- The Event Organiser and its employees, agents and contractors associated with the event are to comply with all laws, including local laws and all other legal requirements relevant to the operation of the event.
- 2. The Event Organiser are to comply with the approved Event Management and Delivery Plan.
- 3. Council reserves the right to cancel the Event Management and Delivery Plan approval at any time.
- 4. A full copy of the approved Event Management and Delivery Plan including permits, licenses, authorisations and any Registers required are to be available on the event site and made available for inspection immediately upon request by Council and Police Officers.
- 5. During the event itself, Event Organiser are to accede to all reasonable directions or requests given by an authorised Council Officer or member of the NSW Police Service. Failure to do so will result in the termination of the event.

#### **Agency Meetings**

6. Event Organisers are required to attend agency meetings organised and chaired by a Council Event Officer with NSW Police, State Transit Authority, Roads and Maritime Services as required to ensure the delivery of a safe and responsible event.

#### Alcohol sale/supply/consumption

- 7. No liquor may be sold, supplied or consumed on the event site without the approval and authorisation from the relevant Liquor Authority.
- 8. The Event Organiser is responsible for obtaining appropriate liquor licences for the event from the Independent Liquor and Gaming Authority (ILGA).
- 9. The type of liquor licence sought from ILGA for the event shall be of a type to enable Council and Police to provide recommendations on the licence conditions to be issued by ILGA.
- 10. A copy of the Liquor Licence is to be displayed at the event.
- 11. A copy of the approved Liquor Licence (including where relevant consent from the Local Police Command to use a caterer's licence) and Liquor Management Plan must be included in the Event Management and Delivery Plan.
- 12. The sale and/or supply of liquor is to cease 30 minutes prior to the cessation of the respective hours of operation for the specified event.
- 13. No patron shall be permitted to take glasses or open containers of liquor off the event premises.



- 14. All liquor is to be sold in opened containers including cans or bottles.
- 15. All persons who serve liquor is to have current RSA certification. A register of certificates is to be available on site for inspection if required.
- 16. High Liquor by volume including pre-mixed drinks, doubles or shots are to not be sold.
- 17. Low alcohol and non-alcoholic beverages including water and soft drinks are is to be available at the event.
- 18. All bar areas will have appropriate structures in place to ensure orderly queuing of patrons.
- 19. Visible and legible signage is to be installed at each bar outlet stating closing time of the bar.
- 20. All beverages are to be served in non-glass receptacles unless otherwise approved by Council
- 21. Glass beverage containers are only permitted in back of house areas unless otherwise approved by Council.
- 22. No person will be allowed entry to the event if the person appears to be noticeably affected by Liquor and/or drugs.
- 23. Combined food and beverage facilities will have defined liquor purchase points clearly distinguishable from other food and non-alcoholic beverage points. Underage Person/s are not to be permitted at the liquor purchase point.
- 24. Liquor beverages purchased at the event may not be taken out of the event site. Bins are to be provided at the egress points for disposing of beverages and other waste before leaving the event site.
- 25. RSA certified security personnel is to be stationed at the bar for the duration of the event.
- 26. Security guards will be required to monitor perimeter fencing to ensure no unauthorised Liquor enters the event site.

#### **Aquatic activities**

27. Aquatic events or any other activity, which affects the general public's use of navigable waters, are to hold a RMS Aquatic Licence.

#### **Complaint management**

- 28. A complaints register with full details of disturbance complaint/s made by a person to management or staff is to be kept and include time, date, nature of the complaint/s and any complainant details if provided.
- 29. Event Organisers are to respond to any disturbance complaint(s) in a timely and effective manner. All actions undertaken by management/staff to resolve complaint(s) shall be recorded in the Register.
- 30. The complaints register and actions taken is to be supplied to Council within 24 hours of the event.
- 31. A telephone hotline may be required for events featuring amplified sound. The hotline must be attended to (not voicemail reliant) throughout the event, as well as during rehearsals and/or sound tests. An email address and physical address should also be made available for any written complaints.



#### **Emergency and risk management**

- 32. Strategies for emergency and risk management are to comply with Australian Standards AS/NZS ISO 31000/2009 and the requirements of the Commissioner NSW Fire and Rescue.
- 33. The number and dimensions of exits and paths of travel to exits are to comply with SEPP (Exempt and Complying Development Codes) 2008 and/or the Building Code of Australia.
- 34. Exits are to be kept clear at all times to provide clear access to exits and provide a safe passage for occupants to open space. This shall include vehicles parked outside the event or any other barrier is not to obstruct the free passage of occupants in an emergency situation.
- 35. All exit doors/gates are to swing in the direction of egress; readily openable; clearly signposted as an exit and clearly visible to event patrons.

#### **Energy and electricity measures**

- 36. Events are required to minimise non-renewable energy use through the use of renewable energy and fuel sources where possible.
- 37. Event electricity use will be metered and charged back to the event where applicable.

#### **Environment load limits**

#### 38. Bondi Park

The maximum load limit over the stormwater reuse area in Bondi Park is 2 tonnes and access is limited to small vehicles such as utes or vans. The load limit does not apply to access covers (pit lids). Pit lids are not to be obstructed at any time and load is limited to pedestrians and cyclists. <sup>12</sup>

#### 39. Bondi Promenade

The maximum load limit on Bondi Promenade is 5 tonne per axle. All vehicle access to Bondi Promenade is to be approved by Council.

#### 40. Dudley Page Reserve

The maximum load limit of Dudley Page Reserve is 2 tonnes and access is limited to small vehicles such as utes or vans.<sup>13</sup>

The patron capacity for Dudley Page Reserve is 2,500.

#### **Event Management and Delivery Plan (EMDP)**

41. All events categorised as High Impact will be required to submit an Event Management Plan a minimum of 4 weeks prior to commence of the event for approval.

#### **Fire Extinguishers**

42. Event Organisers will be required to provide all food outlets, bars and stages with portable fire extinguishers, which comply with the requirements of AS 2441.

#### Fireworks / Pyrotechnics display

43. Any fireworks or pyrotechnics display must be carried out in accordance with the relevant guidelines and controls. Compliance with the Operation Conditions Fireworks controls released by Work Cover NSW, the NSW Explosives Act, Australian Explosives Code and 'Australian Standards (AS) 2187: Explosives – storage, transport and use' shall be adhered to at all times.

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<sup>12</sup> Appendix 3 Bondi Park Site Map

<sup>&</sup>lt;sup>13</sup> Appendix 4 Dudley Page Reserve Site Map



44. The Event Organiser is to provide a completed WorkCover Fireworks Display Permit and Checklist for approval by Council

#### Food vending and catering services

- 45. Event food and drink vendors or catering providers will be required to:
  - (a) Ensure the stall/van complies with the Food Act, 2003 and the Food Safety Standards Code.
  - (b) Apply for a Temporary Food Vending Permit with Council's Health Section, minimum 6 weeks prior to event
  - (c) Comply with the NSW food Authorities Guidelines for Food Businesses at Temporary Events.
  - (d) Supply drop sheets, port-a-floor or similar non-permeable, non-slip matting under cooking areas
  - (e) Comply with waste management requirements.
  - (f) Use biodegradable cutlery, crockery and beverage ware.
  - (g) Ensure all food handlers have access to running cold and warm (40°) water and suitable detergents for hand washing.
- 46. BBQs or cookers are not permitted in confined spaces unless approved by Council.
- 47. Open flame cookers are not permitted in confined spaces unless approved by Council.

#### Infrastructure

48. All event infrastructure<sup>14</sup> is to be constructed and secured in accordance with manufacturers'/ structural specifications and certified as structurally adequate for the intended purposes in accordance with relevant standards and code including the Building Code of Australia.

- 49. All event Infrastructure is to comply with the provisions of State Environmental Planning Policy (Exempt and Complying Development) 2008<sup>15</sup>. Where infrastructure is sought outside the criteria of the SEPP then referral to Council's Director, Waverley Futures (or delegate) for review and comment.
- 50. All structural and electrical certifications are to be submitted to Council prior to the site being open to the public to confirm that the structures and electrical installations are fit for purpose and meet safety requirements.
- 51. All event infrastructure installed on site is to also meet the following conditions including by not limited to:
  - (a) Location of placement is to be determined and approved by Council prior to the event.
  - (b) Structures are to be weighted not pegged in parklands.
  - (c) Event Organisers are responsible for ensuring the location of any underground services are not affected by the installation of the temporary structures.
  - (d) Event Organisers are responsible for ensuring temporary event infrastructures meet likely wind and weather conditions in the locality and any live loadings comply.
  - (e) All mechanical and electrical installations are to be surrounded or covered by appropriate physical barriers so as to prevent unauthorised access by the public.

<sup>&</sup>lt;sup>14</sup> Infrastructure means structures and facilities needed for the event including, but not limited to, scaffolding, staging, seating, marquees, sound and lighting towers, amusement devices etc.

<sup>&</sup>lt;sup>15</sup> Appendix 1: State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for Temporary uses and structures – Quick Reference Guide



- (f) All mechanical and electrical installations are to be disconnected when not required to minimise electricity use.
- (g) All ground laid cabling are to be appropriately covered to ensure they are not trip hazards.
- (h) All electrical services and equipment provided within the event site shall meet with the requirements of AS/NZS 3000 and 3002 and be certified and tagged by a licensed electrical contractor.
- (i) Overhead flexible extension leads are to be at a minimum height of 2.4m and a maximum span of 10m.
- (j) At no time shall any Council owned power outlets or electrical switchboards be changed, upgraded or modified in any way.
- (k) Access for loading/unloading is to be predetermined and approved by Council.
- (I) All contracted construction work is to be undertaken by certified Work Cover licensed persons.
- (m) Fires exits are to be signed and clearly visible at all times.
- (n) No signs, nails, bolts, ropes, wires or any other items are to be attached to any Council structures including light poles.
- (o) Any damage to walls, floors, grassed areas and underground services are to be repaired at the cost of the Event Organiser.
- 52. The appropriate number of medically recognised trained staff are to be engaged for the duration of the event and appropriate first aid facilities available within the event site.

#### **Noise**

- 53. All amplification installation work is to be undertaken between the hours of 7am and 7pm unless otherwise approved.
- 54. The event shall not give rise to the transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997.
- 55. All temporary plant equipment is to be located to ensure that total noise emissions from the equipment does not exceed noise standards criteria
- 56. Local residents and businesses are to be advised of a noise hotline telephone number in a timely manner.
- 57. Sound Engineers are to be fully instructed of the requirements and their responsibilities prior to the event.
- 58. Where relevant, amplification equipment used at the event are to be controlled by a root mean square (RMS) noise limiter, calibrated by an acoustic engineer and connected in such a manner to the one system so that the noise levels produced can be effectively controlled by the noise limiter referred to above and the house mixers/sound engineer.
- 59. No public address (PA) system or electronically operated sound equipment shall be used unless approved by Council as part of the event.
- 60. If, during the event, substantiated complaints or breaches of noise conditions occur, the Event Organiser is to immediately reduce the noise to ensure the event complies with the noise levels specified in the noise conditions above.
- 61. The Event Organiser will be responsible for obtaining the appropriate licences from the Australasian Performing Right Association (APRA) and the Phonographic Performance Company of Australia (PPCA). A copy of the licence is to be supplied to Council.



62. Where relevant, Event Organisers will supply within 1 month of the event's completion an acoustic report detailing the times and locations of where noise measurements were taken; details of equipment and methods used to take the measurements and, a register of any complaints received and actions taken.

#### **Notifications**

- 63. Where relevant, agencies including, but not limited to NSW Police Service, Transport NSW, Roads and Maritime Services, NSW Ambulance Service, Taxi Council are to be notified of the event.
- 64. Council will in consultation with the Event Organiser notify the local precinct committee within 3 weeks of the event.
- 65. No less than 7 days prior to the date of the event, the Event Organiser in consultation with Council may be required to notify local police, residents and businesses within the immediate vicinity of the event. This notification is to be in writing and include the following details:
  - (i) The name and date and time(s) of the event, including bump-in and bump-out.
  - (ii) A description of the event and its purpose.
  - (iii) Number of expected participants.
  - (iv) Any expected disruptions to residents and businesses including road closures.
  - (v) Any changes to public transport arrangements.
  - (vi) A contact name and number of the Event Organiser.
  - (vii) Complaints hotline telephone number and email address details.

#### **Patron behaviour**

66. Event Organisers are responsible for ensuring behaviour of patrons entering and leaving the event do so in an orderly manner and do not detrimentally affect the amenity of the neighbourhood.

#### **Patron capacity**

- 67. The approved patron capacity for the event will be specified in the Venue Hire Agreement.
- 68. Event Organisers are to ensure approved patron capacity is not exceeded and infrastructure and security measures are in place to ensure compliance.

#### **Public facilities/toilets**

- 69. Water stations are to be provided as appropriate for the style, size, timing and duration of the event.
- 70. Toilet facilities are to be provided in accordance with table F2.3 of the Building Code of Australia and based on maximum patron capacity. 16

#### **Public liability**

71. The Event Organiser occupies and uses the outdoor venue at the Event Organiser's own risk.

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<sup>16</sup> Guideline:

<sup>1</sup> urinal per every 100 Males and not less than 5 urinals where number of male patrons exceeds 250 plus one additional urinal for every additional 100 males in excess of 250

<sup>1</sup> pan per every 25 Females and not less than 6 closet pans where number of female patrons exceeds 250 plus one additional closet pan for every 100 females in excess of 250.



- 72. Event Organisers will be defined as a legal entity responsible for the event and required to take out public liability insurance for the event. Legal liability and responsibilities are not diminished if the event is a community or not-for-profit event.
- 73. The Event Organiser shall indemnify Council (and the Minister for Lands where applicable) against any claims for injury to persons or damage to property arising out of such approval.
- 74. The Event Organiser are to effect and maintain at its own cost public liability insurance for a minimum amount of \$10 million per occurrence (or higher where Council reasonably requires).
- 75. The insurance against damage or loss are to be for at least the full replacement cost of the relevant property and are to not exclude cover against malicious acts by third parties.
- 76. A Certificate of Currency (Public liability insurance certificate provided by Insurer) is to be provided to Council prior to the event or on request.
- 77. Council does not take responsibility for any loss or damage to any infrastructure and equipment associated with your event installed in a venue. All infrastructure and equipment that is at the venue is at the Event Organiser's risk.

#### **Security**

- 78. An adequate number of licensed uniformed security guards and/or user pays police are to be engaged for the duration of the event.<sup>17</sup>
- 79. All security personnel are to be licensed in accordance with NSW legislative and regulatory requirements.
- 80. All security personnel are to remain until the last patron has left the vicinity of the event site and all matters of social order have been addressed and confirmed by Council and/or Police.

#### **Signage**

- 81. During bump in, signs shall be erected detailing the name of the event and contact details for the Event Organiser.
- 82. No third party branding other than the event name/brand and discrete sponsor logos are permitted on external fencing visible to non-event community without prior approval from Council.
- 83. For ticketed events, the following signage (in lettering not less than 50mm in height on a contrasting background) shall be erected:
  - (a) At the main entry points detailing conditions of entry, standards of behaviour, patron capacity and trading hours (including bar closure times).
  - (b) At each bar where Liquor is to be sold/supplied/consumed, required liquor licence signage to be erected and clearly visible to bar patrons and include the bar closing time.

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A minimum of 1 security guard per 100 patrons, with a minimum of two (2) will be required. Additional security guards are to be provided to be stationed at Liquor service areas.

<sup>17</sup> Guideline:



#### **Smoking**

- 84. The provisions of the Smoke-Free Environment Act 2000, as well as any other policy or regulations relating to non-smoking enacted by Waverley Council from time to time, are to be complied with.
- 85. Waverley's beaches are non-smoking areas

#### **Temporary fencing**

- 86. Event organisers will be required to provide Temporary perimeter to ensure fence jumping is discourage and minimised.
- 87. Double fencing (with a sterile zone between each fence line) will be required at identified 'At risk' positions.
- 88. Fencing is be constructed so that no person can gain access to the event site by manoeuvring between the ground and the bottom part of the fencing structure.
- 89. The fence line is to be suitably illuminated, especially in dark areas.

#### **Ticketed events**

- 90. Where approved, the 'ticket sales area' is to be located in a secure area which is independent of the main public entrance for pre-sold ticket holders.
- 91. Ticket sale report will be required by Council a minimum of one month before the event detailing the number of tickets sold to that point. Details will be forwarded to the local police command and agencies as relevant
- 92. Final number of tickets sold to be supplied to Council prior to the event site opening to the public.

#### Traffic, transport and pedestrian access

- 93. Any conditions placed on the Council approved Traffic Management Plan are to be adhered to, unless otherwise directed by Police/authorised Council officers.
- 94. Safe and unimpeded movement of pedestrians, including during bump in and bump out periods, including pedestrians with disabilities as required in the Disability Discrimination Act 1992 is to be provided.
- 95. The use public transport integrated ticketing and the use of cycling, walking and carpooling as alternative methods for getting to and from the event is preferred.
- 96. Clear 6m wide passageway for emergency vehicles is to be provided where applicable.
- 97. Accredited RMS traffic controllers are to be supplied as required.
- 98. In the event of a traffic incident or emergency, the Police will take control of all traffic and pedestrian arrangement and make any necessary changes.
- 99. Appropriate and adequate traffic measures (including road closure signs and flashing lights) for the safe movements of traffic and pedestrians is to be provided.
- 100. Event organisers are to adhere to the Roads and Maritime Services (RMS) Guide to Traffic and Transport Management for Special Events (2006).



101. Event organiser are to ensure access to residences or businesses are not blocked unless written approval from the owner/occupant has been obtained.

#### Trees and parklands

- 102. All trees in public open space are to be protected from damage.
- 103. No signs, nails, bolts, ropes, wires or any other items are to be attached to any tree, tree roots or tree guards.
- 104. The event area is to be left in the same condition as it was prior to the event. Pre Event and Post Event site inspections will be conducted with the Event Organiser. The Event Organiser will be charged should any remedial or cleaning work be required.

#### Waste

- 105. Waste minimisation and management conditions that Event Organisers are required to meet, include, but not limited to:
  - (a) No plastic, polystyrene products and packaging are to be used., including drinking cups, food containers, drinking straws and stirrers, knives, forks and spoons
  - (b) No balloons are permitted.
  - (c) No food/drink 'give-a-ways' are permitted unless approved by Council.
  - (d) Distribution of marketing/promotional collateral material within an event site is discouraged and required to be approved by Council. Where possible the material should contain the following messaging "Please dispose of litter appropriately".
  - (e) All rubbish (including packaging) generated as a result of the event is to be removed from the venue by the Event Organisers.
  - (f) The event site and areas immediately surrounding the event site are to be maintained in a clean and tidy manner throughout the occupation of the site (bump-in, event, bump-out) and all waste and general rubbish cleared on a regular basis.
  - (g) Should the waste generated from an event or stall contain 20% or more food waste, an organic waste service will be required.
  - (h) Bin stations (containing at least separate recycling area and general waste receptacles) are to be located near to food and beverages services, at entry/exit points, close to toilets and at the intersection of any pathways.
  - (i) Polluting substances, eg cooking oil, are to be stored in a sealed container and removed for off-site disposal.
  - (j) Used wastewater is to be stored in a sealed container and remove for off-site disposal. Wastewater is not permitted to be disposed of via the stormwater drains or on the sand.
  - (k) Where a public address system is available, public announcements at regular intervals are to be made encouraging patrons to re-use, recycle and use the correct disposal facilities at the event
  - (I) Event Organisers are responsible for contracting waste removal services for the event.
  - (m) All waste are to be stored in a safe manner so that a nuisance to public health is not created.

#### **Work Health and Safety**

106. A suitable Work Health & Safety Plan is to be in place for all personnel working at the site.



107. All site works complying with the occupational health and safety requirements of WorkCover NSW, including construction and operation of all scaffolding, staging, rides and temporary structures and any fireworks/pyrotechnics display.



Appendix 3: Bondi Park Site M	ıap
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(to come)



Appendix 5: Dudley Page Reserve Site M
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(to come)



#### Appendix 5: Useful resources and information

- Waverley Council venue hire applications waverley.nsw.gov.au/community/venuehire
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 www.nswlegislation.nsw.gov.au
- Roads Act 1993 www.nswlegislation.nsw.gov.au
- Building Code of Australia and Australian Standards hia.com.au/BusinessInfo/StandardsRegulations/BCA.aspx
- RMS Aquatic Licence rms.nsw.gov.au/.../aquatic-events/application-aquatic-licence
- ILGA Independent Liquor and Gaming Authority <a href="http://www.ilga.nsw.gov.au/liquor">http://www.ilga.nsw.gov.au/liquor</a>
- NSW Food Authority Food Handling Guidelines for Temporary Events foodauthority.nsw.gov.au/\_Documents/industry.pdf/temp events
- Waverley Council's application form for temporary food stall waverley.nsw.gov.au/building/compliance\_and\_regulations/environmental\_health\_regulations/food \_at\_fairs\_and\_events
- WorkCover NSW- Explosives Act 2003 workcover.nsw.gov.au/law-and-policy/legislation-and-codes/explosives-act
- Protection of the Environment Operations Act epa.nsw.gov.au/legislation/poelegisamend2011.htm
- APRA Australasian Performing Right Association apraamcos.com.au/music-customers/licence-types/event-licences/
- PPCA Phonographic Performance Company of Australia .ppca.com.au/music-users-/apply-for-a-licence/
- WorkCover NSW Occupational Health and Safety Legislation workcover.nsw.gov.au/health-and-safety,workcover.nsw.gov.au/licences-and-registrations
- Smoke-Free Environment Act 2000 legislation.nsw.gov.au/inforcepdf/2000-69.pdf?id=95781173-caca-4df8-ef70-becf2171fbfe
- Electrical Services AS/NZS 3000 and 3002
   saiglobal.com/pdftemp/previews/osh/as/as3000/3000/3000-2007.pdf



# **Events Policy**

Policy owner	Manager, Events		
Approved by	Council		
Date approved	18 August 2020		
Commencement date	19 August 2020		
TRIM Reference	D20/77231		
Next revision date	18 August 2024		
Relevant legislation/codes	N/A		
Related policies/procedures/guidelines	<ul> <li>Waverley Community Strategic Plan 2018-2029</li> <li>Waverley Council 'Event Management and Delivery Requirements'</li> <li>Waverley Council 'Event Waste Management Guidelines'</li> <li>An Inclusive Community for Everyone - Eastern Suburbs 2017 – 2021</li> <li>Disability Inclusion Action Plan – Waverley Council 2017 – 2021</li> <li>Innovate Reconciliation Action Plan – Waverley Council 2019 – 2021</li> <li>Waverley Council 'Safety Management for Water-Based Events'</li> </ul>		
Related forms and documents	<ul> <li>Low to Medium Impact Event Application</li> <li>Low to Medium Impact Event Permit</li> <li>High Impact Event Application</li> <li>Water Safety Plan Form</li> <li>Event Sheet</li> <li>Short Term Venue Hire Agreement</li> <li>Regular Venue Hire Agreement</li> <li>Event Agreement – High Impact Event</li> <li>Waverley Council Temporary Food Permit</li> </ul>		

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# 1. Background

Waverley Council delivers and hosts a range of sustainable and inclusive events that contribute to the vibrant and diverse cultural life of the Waverley community. Events make a valuable contribution to Waverley's culture, economy, the local area and its people's connection to place.

Council has strong community, environmental and social targets aimed at strengthening community inclusion, supporting the local economy and balancing community and visitor expectations.

To support this Policy, Council's 'Event Management and Delivery Requirements' and 'Event Waste Management Guidelines' provide a clear and effective framework to assist in the planning and delivery of events that are of a high quality and meet contemporary sustainability standards. The application of this Policy and related documents will ensure compliance with Council policies, relevant laws and event industry best practice.

## 2. Purpose

In conjunction with Council's 'Event Management and Delivery Requirements' and 'Event Waste Management Guidelines', the purpose of this Policy is to:

- provide principles, strategies, actions and controls for delivering events on Waverley Council land and in Waverley Council owned or managed buildings ('Council Facility')
- ensure that events meet best practice safety, security, environmental and social sustainability standards
- classify events in terms of their impact
- ensure that events comply with relevant Council policies, legislation and regulations, industry codes and event industry best practice
- minimise any negative impacts of events on the non-event community and the environment
- ensure that events achieve applicable goals as detailed in Waverley Council's Community Strategic Plan.

This Policy and related documents are designed to ensure that event applicants demonstrate how their event will provide a welcoming and safe environment that achieves one or more of the following outcomes:

- delivers either recreational, social, cultural, education or information opportunities for residents and visitors to participate
- supports and contributes to the well-being of residents and visitors
- supports and includes people from all sections of the community
- supports and respects the unique identity of Waverley and its culture
- recognises occasions of historical, social or cultural significance
- contributes to the local economy, businesses and tourism.

To achieve its purpose, this Policy must be read and applied in conjunction with Waverley Council's 'Event Management and Delivery Requirements' and 'Event Waste Management Guidelines'. The processes, procedures and requirements of these key supporting documents must be complied with.

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#### Limitations and restrictions

Waverley Council does not deliver or host events that:

- promote tobacco or gambling
- have alcohol promotion as the main purpose
- are racist, sexist or discriminatory in nature
- involve endangered animals, or cruelty to animals
- threaten the environment (particularly in ecologically sensitive areas e.g. protected vegetation zones, bush regeneration sites and the marine environment)
- cause undue strain on public spaces during the summer season (December February)
- have the potential for an adverse impact on Waverley Council's reputation and brand
- involve overtly commercial branding on any beach
- are not consistent with the objectives outlined in Waverley Council's Community Strategic Plan, or other plans, strategies and policies of Council including Plans of Management
- pose a conflict between the objectives and values of Council and those of the other party
- pose an unacceptable risk to the community or Council workers.

Note: Council will permit the hire of its facilities for party political fundraising events but will not actively deliver, host or support such events.

## 3. Scope

This Policy applies to all events held on Waverley Council owned or managed land and in Waverley Council owned or managed buildings within the Waverley Local Government Area (LGA). This includes:

- events organised by Waverley Council that are attended by members of the public
- events organised by external organisations or individuals
- co-partnered events that involve both Waverley Council and external organisation/s in their production and delivery
- promotional and marketing activities.

This Policy does not apply to:

- unpublicised, informal, social or family gatherings in outdoor venues
- aircraft flying over the Local Government Area
- environmental clean-up sessions or other events with local social and environmental benefits of 50 or fewer participants where no infrastructure, flags, banners or music involved
- regular markets approved through a tender/EOI process
- busking (refer to Council's 'Busking Permit Application')
- charity activities for raising brand awareness or collecting names for fundraising at designated locations (see Council's 'Charity Permit Application')
- commercial fitness training (refer to Council's 'Commercial Fitness Policy')
- filming and photography (refer to Council's 'Film and Photography Permit Application')
- internal Council events that involve Council employees and invitees only, including meetings, training sessions etc. (refer to Council's 'Internal Events Policy')
- public rallies and demonstrations (refer to NSW Police 'Notice of Intention to Hold a Public Rally)
- seasonal use of sports fields by schools and registered sporting clubs (refer to Council's 'General Conditions of Hire Sports Fields and Courts').

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# 4. Policy Content

#### 4.1 Policy Statement

Council seeks to deliver and host a range of events that contribute to Waverley's vibrant and diverse community, cultural life, economy, the local area and people's connection to place. Through the application of this Policy and related documents, Council is:

- identifying the strategies and processes required for successful events that meet Council and the community's strategic goals for the Waverley LGA
- providing clear guidance for Council, the community and all stakeholders on how events will be planned, managed and delivered
- ensuring that all risk and safety management, sustainability and inclusivity issues associated with events in the Waverley LGA are identified and appropriately addressed.

#### 4.2 Policy Principles

All applicable events must adhere to the following principles:

- a) A commitment to event industry best practice across all areas
- b) Acknowledge and pay respect to the Traditional Owners connection to country ("sovereignty") and custodianship of land, water and sky.
- c) Respect and accommodate the needs of stakeholders of all ages, abilities and linguistic, cultural and religious backgrounds
- d) Promote choices that minimise environmental impact and maximise sustainability across all areas
- e) Promote inclusivity and accessibility.

Refer to Council's 'Event Management and Delivery Requirements' and 'Event Waste Management Guidelines' for details of applicable strategies and required processes to ensure that these principles are adhered to.

#### 4.3 Assessment of Event: Suitability and Criteria

In deciding whether an event is suitable for the Waverley Local Government Area (LGA), Council Officers will consider a range of factors. These include:

- suitability and purpose of the event activity
- suitability and availability of the event location and duration
- impact of the event on the event location and surrounds (including residents, environment, property, services, Council workers and the traffic and transport network) and the extent to which these impacts can be successfully managed or mitigated
- community, social, environmental or economic benefits associated with the proposed event
- suitability and experience of the event organiser
- compliance with legal and insurance requirements.

#### 4.3.1 Event Classification

To determine the level of management and compliance conditions to be applied to events, events will be categorised as either a LOW IMPACT, MEDIUM IMPACT 1 or MEDIUM IMPACT 2, HIGH IMPACT 1 or HIGH IMPACT 2 event based upon the details provided in an event application.

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Events categorised as 'LOW IMPACT' or 'MEDIUM IMPACT (1 or 2)' can be assessed and determined by Council Officers.

Events categorised as 'HIGH IMPACT 1' must be submitted to Council's General Manager for determination. If the event is approved by the General Manager, such approval may be subject to the submission and approval of a comprehensive Event Management and Delivery Plan (EMDP). If an EDMP is required, it must be submitted to and approved by Council Officers prior to the event proceeding.

Events categorised as 'HIGH IMPACT 2' will require approval at a Council meeting or a Committee of Council. If the event is approved by Council, a comprehensive Event Management and Delivery Plan (EMDP) must be submitted to and approved by Council Officers prior to the event proceeding.

The following table provides details of the Assessment Criteria and the timeframes required for the assessment and determination of each classification of event.

As demonstrated in this table, the classification of events is controlled on an incremental basis. The highest applicable Impact Classification criterion of any event determines its classification level.

Impact Classification Level	Impact Criteria	Timeframe for Event Determination
Low Impact	<ul> <li>Any event that involves ALL the following:</li> <li>No more than 200 patrons or participants</li> <li>Held between 6 a.m. and 6 p.m. (Outdoor Event)</li> <li>Infrastructure footprint less than 100m2</li> <li>Does not involve the sale of food</li> <li>or drinks (distribution of sample-sizes servings for promotional purposes are permitted under this Impact Classification)</li> <li>Does not involve any traffic or parking changes</li> <li>No amplified sound, or appropriate minimal/low level amplification only</li> <li>Has little or no impact on Council Operations</li> </ul>	5 – 10 days from receipt of Application

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Medium Impact 1	Any event that involves ANY of the following is a 'Medium Impact 1' Event:	4 – 10 weeks from receipt of Application
	<ul> <li>No more than 2,000 patrons or participants</li> <li>Infrastructure footprint less than 400m2</li> <li>Involves appropriate low or moderate amplification only</li> <li>the sale of food and/or non-alcoholic drinks, and/or</li> <li>the distribution of full-sized products or servings for promotional purposes, and/or</li> <li>minor traffic or parking changes (that do not need to be referred to Council's Traffic Committee)</li> <li>impacts on Council Operations requiring a change in operation and/or additional resources</li> </ul>	(Water-based events will require 8 weeks minimum)
	<ul> <li>A 'Medium Impact 1' event must not:</li> <li>involve the sale or provision of alcoholic beverages</li> </ul>	
	<ul> <li>finish after 10 p.m. (if the event is an Outdoor Event)</li> </ul>	
	Further considerations or limitations may apply depending upon the individual circumstances and location of a proposed event.	
Medium Impact 2	Any event with fewer than 500 patrons or participants wholly within a Council Facility where:	4 – 10 weeks from receipt of Application
	<ul> <li>Alcohol is sold or provided; and/or</li> <li>High level amplified sound, music, entertainment or activities are present</li> </ul>	
High Impact 1	Any event with 500 to 2,000 patrons or participants wholly within a Council Facility where:	2 – 4 months from receipt of Application
	<ul> <li>Alcohol is sold or provided; and/or</li> <li>High level amplified sound, music, entertainment or activities are present; and/or</li> </ul>	

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	Substantial changes are made to regular public access through Bondi Pavilion  Note: fees for events that are solely or primarily pyrotechnics displays will be applied at the lowest applicable level of fee banding	
High Impact 2	<ul> <li>Any event that involves ANY of the following:</li> <li>More than 2,000 patrons or participants</li> <li>The sale or provision of alcoholic beverages at an Outdoor Event</li> <li>Finishes after 10 p.m. (Outdoor Event)</li> <li>Infrastructure footprint exceeds 400m2</li> <li>Involves high level amplified sound at an Outdoor Event</li> <li>Requires substantial road closures or otherwise significantly impacts on the normal use of roads and/or requires special/additional public transport provisions</li> <li>Impacts significantly on Council Operations</li> </ul>	Up to 6 months from receipt of Application

#### 4.3.2 Further Classification of Events

Events are further classified as either:

#### **Public**

A Public Event is an event that:

- is accessible to the general public, and/or
- involves ticket sales, and/or
- is held for the purposes of commercial and financial gain.

#### **Private**

A Private Event is an event that is not accessible to the general public, does not involve ticket sales and is not held for the purposes of commercial or financial gain.

#### Community

An event that is held by a community organisation is a Community Event, where that community organisation:

- is engaged in community-based activities (including charitable activities) that are for the benefit of the local community or the environment, and
- is not established for the purpose of making a profit, and

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• relies primarily upon the voluntary contributions of members, non-members and grants.

Note: an event held by a State/Public or Independent school is also a community event.

Community Events are eligible for a waiver of event fees for Low Impact Events and a 50% reduction of event fees for Medium Impact and High Impact Events.

#### **Not for Profit**

An event held largely or primarily to raise awareness and/or funds for a registered Not for Profit Organisation is a Not for Profit event.

Not for Profit events will be charged at 50% of the applicable event fee. To qualify for the fee reduction, the following criteria apply:

- The event application must be submitted by a registered Not for Profit organisation
- The Not for Profit organisation must have a presence at the event that includes visible branding and at least one employee or registered representative of the Not for Profit organisation

Partnerships and co-branding with business or commercial entities is permitted if the above criteria are met.

#### 4.4 Application/Determination

In determining applications, it should be noted that that Council Facilities have Conditions of Hire and operational plans that may impact determination processes and timeframes.

#### 4.4.1 Low Impact Events

- For Outdoor Events, apply online via the 'Low to Medium Impact' link on the 'Waverley Council Events' web page
- For events in a Council Facility, apply online via the Waverley Council 'Venue Hire' web page
- Council Officers will provide advice and assistance as required/ appropriate
- Assessed and determined by Council Officers
- Event approval or refusal issued within 5 10 days of receipt of Application
- Terms and Conditions must be complied with.

#### 4.4.2 Medium Impact Events ('Medium Impact 1' and 'Medium Impact 2')

- For Outdoor Events, apply online via the 'Low to Medium Impact' link on the 'Waverley Council Events' web page
- For events in a Council Facility, apply online via Waverley Council 'Venue Hire' web page
- Council Officers will provide advice and assistance as required/appropriate
- Assessed and determined by Council Officers
- Event approval or refusal issued within 4-10 weeks of receipt of Application
- Terms and Conditions must be complied with.

Note: water-based events will require 8 weeks for assessment and Event Approval.

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#### 4.4.3 High Impact 1 Events

- For pyrotechnic /fireworks events, apply online via the 'High Impact Event' link on the 'Waverley Council Events' web page
- For events in a Council Facility, apply online via the Waverley Council 'Venue Hire' web page
- Council Officers will provide advice and assistance as required/appropriate
- Report by Council Officers to General Manager. General Manager determination required
- Full Event Management and Delivery Plan may be required
- Event approval or refusal issued within 2 4 months of receipt of Application
- Terms and Conditions must be complied with.

#### 4.4.4 High Impact 2 Events

- For Outdoor Events apply online via the 'High Impact Event' link on the 'Waverley Council Events' web page
- For events in a Council Facility, apply online via the Waverley Council 'Venue Hire' web page
- Council Officers will provide advice and assistance as required/appropriate
- Report by Council Officers to Council. Determination at a meeting of Council or a Council Committee is required
- Full Event Management and Delivery Plan will be required
- Event approval or refusal issued within 6 months of receipt of Application
- Terms and Conditions must be complied with.

# 5. Review of Policy

This Policy will be reviewed every four years or as required in the event of legislative changes or requirements. This Policy may also be changed as a result of other circumstances. Any amendments to this Policy must be by way of a Council resolution.

#### 6. Definitions

Term	Definition
Application	A formal request for an event to be assessed. Must be submitted via the relevant link on Council's website, must largely address all required criteria and must contain draft or preliminary versions of all required supporting documents.
Condition/s	Anything that Council or Council Officers require an event applicant or organiser to do or fulfil for their event to proceed
Council Approval	Council Officers must prepare a report for a meeting of Council or a Council Committee. A Council vote in support of a proposed event is required before Council Officers can issue an Event Approval

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Council Facility	A venue that is owned and operated by Waverley Council that is primarily a building or a structure (e.g. Bondi Pavilion)
Council Worker	Is a person who carries out work in any capacity for Waverley Council, including employee, trainee, volunteer, outworker, apprentice, work experience student, contractor or sub-contractor, employees of a contractor or sub-contractor, and an employee of a labour hire company assigned to work for Waverley Council
Event Approval	Written notice from an appropriate Waverley Council Officer that an event may proceed. For High Impact Events, Council or Executive Leadership Team (ELT) approval is required before an Event Approval can be issued. An Event Approval may contain Conditions
Event Industry Best Practice	A method or technique that has been widely accepted as superior to any alternatives because it produces reliably good results
Event Management and Delivery Plan	A comprehensive plan prepared by an event applicant or organiser and submitted to Council Officers that provides details of all aspects of the management and delivery of an event. Details of what an Event Management and Delivery Plan must contain, as well as timeframes and procedures for submission and review, can be found in Waverley Council's 'Event Management and Delivery Requirements'
Executive Leadership Team (ELT) Approval required	Council Officers must prepare a report for a meeting of Council's Executive Leadership Team (ELT). Council's ELT must support the event before Council Officers can issue an Event Approval
General Manager	General Manager means the General Manager of Waverley Council
Outdoor Event	An event that takes place on Waverley Council owned or managed land that is primarily a park or a public open space (e.g. Bondi Park)
Rejection	Notice from an appropriate Council Officer to an event applicant that their event has not been approved and cannot proceed
Timeframe	The length of time that an event determination will take. The Timeframe commences from the time that a valid Application is received
Waverley Council's 'Event Management and Delivery Requirements'	The primary operational document that supports this Policy. This document provides details of all aspects of Council's event planning and delivery requirements
Waverley Council's 'Event Waste Management Guidelines'	The key document that provides details of acceptable products and waste management requirements for events

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